

UNITED STATES COURT OF FEDERAL CLAIMS
FOR THE TENTH CIRCUIT

Ayinde Mohn, et. al. (Beneficiary, Trustee), Case No.: 21-922 C

Plaintiff,

vs.

United States (Fiduciary, District Attorney,
Secretary of Interior, and agents in their
official capacity, et. al.), **Cherokee Nation
of Oklahoma**,

Defendants

**MANDAMUS IS THE PROPER REMEDY
FOR THE RIGHT TO LEGAL
REPRESENTATION FROM THE U.S.
DISTRICT ATTORNEY AND TO SUE
FOR INDIVIDUAL INDIAN RESTRICTED
FUNDS ALREADY EXISTING**

OPENING STATEMENT

Luke 18:1-8

New King James Version

The Parable of the Persistent Widow

(18) Then He spoke a parable to them, that men always ought to pray and not lose heart, (2) saying: "There was in a certain city a judge who did not fear God nor regard man. (3) Now there was a widow in that city; and she came to him, saying, 'Get justice for me from my adversary.' (4) And he would not for a while; but afterward he said within himself, 'Though I do not fear God nor regard man, (5) yet because this widow troubles me I will avenge her, lest by her continual coming she weary me.'"

(6) Then the Lord said, "Hear what the unjust judge said. (7) And shall God not avenge His own elect who cry out day and night to Him, though He bears long with them? (8) I tell you that He will avenge them speedily."

F. *Right to Sue.* An Indian has the same right as anyone else to be represented by counsel of his own selection, who may not be subordinated to counsel appointed by the court. As an additional

protection, the United States district attorney has the duty to represent him in all suits at law or in equity.¹

¹ *Fred A Seaton, Secretary. OFFICE OF THE SOLICITOR. Elmer F.*

Bennett, Solicitor. (2008) FEDERAL INDIAN LAW. Clark, New Jersey. THE LAWBOOK EXCHANGE, LTD. Originally published: Washington: U.S. Govt. Print. Off., 1958.

“United States Department of Interior, Fred A. Seaton, Secretary. Office of the Solicitor. Elmer F. Bennett, Solicitor.” Page. 541. Act of March 3, 1893, (27 Stat. 612, 631),

** * * * **

To enable the Secretary of the Interior, in his discretion, to pay the legal costs incurred by Indians in contests initiated by or against them, to any entry, filing, or other claims, under the laws of Congress relating to public lands, for any sufficient cause affecting the legality or validity of the entry, filing or claim, five thousand dollars: Provided, That the fees to be paid by and on behalf of the Indian party in any case shall be one-half of the fees provided by law in such cases, and said fees shall be paid by the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, on an account stated by the proper land officers through the Commissioner of the General Land Office. In all States and Territories where there are reservations or allotted Indians the United States District Attorney shall represent them in all suits at law and in equity. * * * 25

U.S.C. 175, 178, * * * In all States and Territories where there are reservations or allotted Indians the United States attorney shall represent them in all suits at law

1 **As a practical matter, the Indians have frequently been at a decided**
 2 **disadvantage in safeguarding their legal rights.**

3 **The courts were often at such a distance that the Indians could not**
 4 **avail themselves of their rights to sue.² Their ignorance of the**
 5 **language, customs, usages, rules law, and forms of procedure of the**
 6 **white man, the disparities of race, the animosities caused by**
 7 **hostilities, are said to have deprived them at times of a fair trial by**
 8 **jury. In order to minimize the foregoing disadvantages a number of**
 9 **statutes have been enacted, establishing a separate administrative**
 10 **procedure to safeguard the rights of the Indians. One of the most**
 11 **important laws of this nature is the act of June 25, 1910.³**

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 14 **and in equity. * * *** (Mar. 3, 1893, ch. 209, § 1, 27 Stat. 631; June 25, 1948, ch. 646,
 15 § 1, 62 Stat. 909.)

16 ² Ibid. Page 541. Abel, vol. 1, op. cit., p. 23, footnote 14. **Toward the**
 17 **close of the 19th century, many writers criticized the Government for not giving**
 18 **the Indians courts for the redress of their wrongs, especially the arbitrary action**
 19 **of administrators.**

20 ³ Ibid. Page 543. 36 Stat. 855, amended March 3, 1928, 45 Stat. 161, April
 21 30, 1934, 48 Stat. 647, 25 U.S.C. 372, discussed in *Hallowell v. Commons*, 239 U.S.
 22 506 (1916), aff'g 210 Fed. 793 (1914); *United States v. Arenas* (1951), 95 F. Supp. 962-
 23 964.
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1 Therefore, according to the Act of March 3, 1893, (27 Stat. 612, 631), 25 U.S.C.
 2 175, 178, the act of Congress approved June 25, 1910 (36 Stat. 855), amended March
 3 3, 1928, (45 Stat. 161), April 30, 1934, (48 Stat. 647), and 25 U.S.C. 372,⁴ comes now
 4 plaintiff Mohn seeking a “Writ of Mandamus,” or any other way which the court may see
 5 fit, to require the District Attorney of the United States to perform a ministerial duty owed
 6 to plaintiff Mohn; **to represent him in all suits at law or in equity.**
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 11 **⁴ * * * Ascertainment of heirs of deceased allottees; settlement of**
 12 **estates; sale of lands; deposit of Indian moneys. When any Indian to whom an**
 13 **allotment of land has been made, or may hereafter be made, dies before the**
 14 **expiration of the trust period and before the issuance of a fee simple patent,**
 15 **without having made a will disposing of said allotment as hereinafter provided,**
 16 **the Secretary of the Interior, upon notice and hearing, under the Indian Land**
 17 **Consolidation Act [25 U.S.C. 2201 et seq.] or a tribal probate code approved**
 18 **under such Act and pursuant to such rules as he may prescribe, shall ascertain**
 19 **the legal heirs of such decedent, and his decisions shall be subject to judicial**
 20 **review to the same extent as determinations rendered under section 373 of this**
 21 **title. If the Secretary of the Interior decides the heir or heirs of such decedent**
 22 **competent to manage their own affairs, he shall issue to such heir or heirs a**
 23 **patent in fee for the allotment of such decedent. * * ***
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2 from the Cherokee Nation all moneys due either in law or equity and unpaid to the
3 said Shawnees, Delawares, or freedmen, which the Cherokee Nation have before
4 paid wit, or may hereafter pay, per capita, in the Cherokee Nation, and which was,
5 or may be, refused to or neglected to be paid to the said Shawnees, Delawares, or
6 freedmen by the Cherokee Nation, out of any money or funds which have been, or
7 may be, paid into the treasury of, or in any way have come, or may come, into the
8 possession of the Cherokee Nation, Indian Territory, derived from the sale,
9 leasing, or rent for grazing purposes on Cherokee lands west of ninety six
10 degrees west longitude, and which have been , or may be, appropriated and
11 directed to be paid out per capita by the acts passed by the Cherokee council,
12 and for all moneys, lands, and rights which shall appear to be due to the said
13 Shawnees, Delawares, or freedmen under the provisions of the aforesaid articles
14 of the treaty and articles of agreement...and all judgments for any sum or sums of
15 money which may be ordered or decreed by such court in favor of the Shawnees,
16 Delawares, or freedmen , and against the Cherokee Nation, shall be enforced by
17 the said court or courts against the said Cherokee Nation by execution,
18 mandamus, or in any other way which the court may see fit...The right of appeal,
19 jurisdiction of the court, process, procedure, and proceedings in the suit here
20 provided for shall be as provided for in sections one, two, and three of this act.
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23 Approved, October 1, 1890. (26 Stat. L., p. 636.). * * *
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Mandamus,” or any other way which the court may see fit, to begin separately to
 prosecute a suit against the Cherokee Nation and the United States Government **to**
recover from the Cherokee Nation all individual Indian funds of the Reese family
trust of 488 acres of the Restricted lands in the Cherokee Nation territory of
Oklahoma, in the amount of \$ 100,000,000.00 (one hundred million dollars), due
 either in equity and unpaid to plaintiff Mohn which the Cherokee Nation have before
 paid wit, or may hereafter pay, per capita, in the Cherokee Nation, and which was, or
 may be, refused to or neglected to be paid to plaintiff Mohn, out of any money or funds
 which have been, or may be, paid into the Treasury of, or in any way have come, or
 may come, into the possession of the Cherokee Nation Indian Territory, derived from
 the sale, leasing, or rent for grazing purposes, oil and gas leases and mortgages, right-
 of-way for telephones, pipelines, etc., acquisition of lands by railways for materials and
 reservoirs, sale of timber, burnt timber, agency tracts, etc., mining lease of agency
 reserves, agricultural entries on surplus coal lands, and water power license rentals, on
 Cherokee Restricted lands, consisting of 488 of Restricted homestead acres (See
 Exhibit B) allotted by the DOI to the Reese family trust (1902—1906), and which have
 been, or may be, appropriated and directed to be paid out per capita by the acts passed
 by the Cherokee council, and for all moneys, lands, and rights which appear to be due
 plaintiff Mohn under the provisions of the *1880 Authenticated Cherokee Nation Final*
Roll, federally recognized by: a) Section 21 of the Curtis Act of June 28, 1898 (30 Stat.
 498, 502); b) Section 27 of the Act of July 1, 1902 (c. 1375, 32 Stat. 716, 720); c)
 Decree of the Court of Claims rendered February 3, 1896 (Section 1070 of the Revised

Statutes; d) 28 U.S.C. § 1505 (1949); e) Fifth Amendment (1789 (rev. 1992)). Equality before the law is such an essential part of the American system of government that, when a majority, whether acting intentionally or unintentionally, infringes upon the rights of a minority, the Court may see fit to hear both sides of the controversy in court.

Citizenship alone constituted the right which entitled plaintiff Mohn to share in the DOI's allotments of 488 acres of Restricted homestead lands to the Reese estate trust, which is the property of the Cherokee Nation. The restrictions of alienation of land express a public policy designed to protect improvident people. **In adopting the restrictions, Congress was not imposing restraints on a class of persons who were *sui juris*, but on Indians who were being conducted from a state of dependent wardship to one of full emancipation and needed to be safeguarded against their own improvidence during the period of transition. "The purpose of the restrictions was to give the needed protection."**⁶ As part of its supervision of alienation of individual lands, Congress has provided for the disposition and inheritance, by descent or devise, of trust and restricted lands, and the exercise of

⁶ *Fred A Seaton, Secretary. OFFICE OF THE SOLICITOR. Elmer F. Bennett, Solicitor. (2008) FEDERAL INDIAN LAW. Clark, New Jersey. THE LAWBOOK EXCHANGE, LTD. Originally published: Washington: U.S. Govt. Print. Off., 1958. "United States Department of Interior, Fred A. Seaton, Secretary. Office of the Solicitor. Elmer F. Bennett, Solicitor." Pages. 464—465. *Smith v. McCullough*, 270 U.S. 456 (1926).*

1 this power has been sustained. “Congress has also vested jurisdiction in the county
 2 courts over probate proceedings of such property.” *Lone Wolf v. Hitchcock*, 187 U.S.
 3 553 (1903). * * * **The act of May 27, 1908, together with the 1906 act, and the acts of**
 4 **April 12, 1926, May 10, 1928, May 24, 1928, January 27, 1933, July 2, 1945, August**
 5 **4, 1947, and act of August 11, 1955, are the principle statutes defining or**
 6 **removing restrictions, and the corresponding tax exemptions, with reference to**
 7 **the property of the Five Civilized Tribes. By the act of May 10, 1928, restrictions**
 8 **on alienation of allotments of allottes of halfblood or more were extended until**
 9 **April 26, 1956. The act of August 11, 1955 (69 Stat. 666) further extended the**
 10 **period of restrictions for the lives of the Indians then owning the restricted lands.**⁷
 11 **Exercise by Congress of its plenary power in Indian affairs to enact curative**
 12 **measures may be illustrated by reference to *United States v. Hellard* (322 U.S.**
 13 **363(1944)). The Supreme Court had held that the appearance and participation of**
 14 **a United States probate attorney in a State proceeding for the partitioning of**
 15 **restricted land did not make the judgment of the Court binding on the United**
 16 **States. Congress passed a corrective act of July 2, 1945 (59 Stat. 313, 25 U.S.C.**
 17 **355 note.), which stated that in section 3 that no order, judgment, or decree in**
 18 **partition made subsequent to the effective date of the act of June 14, 1918, and**
 19 **prior to July 2, 1945 (59 Stat. 313, 25 U.S.C. 355 note.), involving inherited**
 20 **restricted lands of members of the Five Civilized Tribes should be void or invalid**

⁷ Ibid. Pages 1014—1016.

1 because the United States was not a party or because it had not been properly
 2 served. * * * 8

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 4 **2. Restricted Meanings a. Inability to Alienate Land. –Perhaps the**
 5 **most frequent special use of the term “incompetency” is to describe**
 6 **the status of an Indian incapable of alienating some or all of his real**
 7 **property. Such an Indian may be competent in the ordinary legal**
 8 **sense. An outstanding example is Charles Curtis, who, though he**
 9 **became Senator and Vice President of the United States, remained**
 10 **all his life an incompetent Indian, incapable of disposing of his trust**
 11 **property by deed or devise, without securing the approval of the**
 12 **Secretary of Interior.⁹**

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 15 Therefore, this “incompetency” doctrine clearly defeats the United States’
 16 contention that the Reese family could have sold their Restricted land trust whenever
 17 they wanted to whomever they wanted. On the contrary, the Reese family could not
 18 have sold any of their Restricted land without the approval of the Secretary of Interior.
 19 Additionally, the State of Oklahoma cannot successfully prosecute a tax lien on
 20 Restricted property due to non-payment of taxes, because this type of unwarranted
 21 action is a violation of the Fifth Amendment.

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⁸ Ibid. Page 1029.

24 ⁹ Ibid. Page 553.

b. *Remedies.* —Where the determination of membership in a tribe is left to the Secretary of Interior, his decision is final and cannot be controlled by mandamus unless his act is arbitrary and in excess of the authority conferred upon him by Congress.¹⁰

d. *Individual Funds.* —The power of Congress over individual funds is an outgrowth of its control over restricted lands and the same general principles are applicable to both.¹¹

The “Rule of Law” is a principle under which all persons, institutions, and entities are accountable to laws that are publicly promulgated, equally enforced, independently adjudicated, and consistent with international human rights principles. **“We have no officers in this government,”** the Supreme Court said, in the case of *The Floyd Acceptances* (7 Wall. 666, 676—677 (1868)), **“from the President down to the most subordinate agent, who does not hold office under the law, with prescribed duties and limited authority.”**¹² This Court plays an integral role in maintaining the rule of law,

¹⁰ Ibid. Page 91.

¹¹ Ibid. Page 43. *Butler v. Denton*, 57 F. Supp. 653 (1944) ; aff’d 150 F. 2d 687 (1945).

¹² Ibid. Page 47.

1 particularly when hearing the grievances voiced by the direct descendants of full-blood
2 Native Americans who are continuously deprived of their citizenship birthrights and
3 Restricted lands.
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**A TALE OF TWO LETTERS: DESCENDANTS OF INTERMARRIED WHITES VS.
FULL-BLOOD NATIVE CHEROKEES**

What is good for the “White Goose” is especially good for the “Full-blood” gander. In other words, the 1903 letter submitted to this Court by the U.S. Dept. of Interior (“DOI”) in support of the direct descendants of intermarried whites being enrolled as citizens of the Cherokee Nation of Oklahoma, most definitely should be applied to the direct descendants of full-blood Native Cherokees. This commonsense principle is according to the rule of law and a network of congressional acts and decrees of the U.S. Supreme Court and this Court, designed to protect the citizenship birthrights of full-blood Native Cherokees, forevermore.

Comparing the 1903 DOI letter in support of intermarried whites becoming federally recognized citizens of the Cherokee Nation of Oklahoma, as opposed to plaintiff Mohn’s official DOI certificate of degree of Indian Blood (“CDIB”) denial correspondence (2013—2014), the evidence submitted was clearly not the same false statements found in Plaintiff Mohn’s correspondence, designed to deceive, and degrade the direct lineal descendants of full-blood Native Cherokees like himself. Consequently, plaintiff Mohn has continued to be miseducated, confused, and deprived by the DOI of his citizenship birthrights and Restricted land trust, into perpetuity. Furthermore, judging by what has been falsely stated by the DOI and the United States in their defense motions, they will more than likely continue the unlawful enforcement of the degradation of full-blood Native Cherokees to Cherokee Freedmen and the overthrowing of the judicial supervision of this Court. Clearly, these unwarranted

1 actions by the DOI are an endless enforcement of Federal Institutional Racism against
2 plaintiff Mohn, thereby purposely miseducating, deceiving, and bewildering full-blood
3 Native Cherokee descendants, like himself, into perpetuity.

4 Plaintiff Mohn avers he was manipulated for several years into believing the
5 fallacy that the Dawes Commission was a Tribunal with judicial authority, which caused
6 the delay of the prosecution of this lawsuit with the correct Federal Indian provisions
7 identified in this case. Since the DOI has continued its policy of Federal Institutional
8 Racism against plaintiff Mohn to deceive and subsequently deprive him of his full-blood
9 Native Cherokee citizenship birthrights and Restricted land trust, he was forced to
10 contract the expensive paralegal services of Curia Documents Solutions LLC of Florida,
11 in order to prepare a successful prosecution of this suit. Therefore, the six-year statute
12 of limitation for Plaintiff Mohn's CDIB denial must be suspended, because Plaintiff Mohn
13 has clearly exposed the heinous crimes and breach of trust by the fiduciary of his trust
14 that have "concealed its acts," which resulted in Plaintiff Mohn "being made unaware of
15 their existence." *Rosales v. United States*, 89 Fed. Cl. 565, 578 (2009). Instead of the
16 fiduciary of his trust performing their sworn duty to the constitution as administrative
17 officers doing administrative work, educating Plaintiff Mohn on how to defend his special
18 Indian Civil rights already existing, he was repeatedly deceived and degraded to a
19 Cherokee Freedmen, despite never being a Cherokee African slave to begin with,
20 subsequently, delaying the Federal Indian prosecution of his suit.

21 Plaintiff Mohn declares that if not for the DOI deceiving himself and the former
22 beneficiaries of the Reese family Restricted land estate, he would have never filed his
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former suits, but only this suit. In other words, **he would have only identified his personal injury under Federal Indian provisions of law, instead of mistakenly filing a class action suit as a pro se litigant, identifying the False Claims Act and defending the non-Indian rights of only his great-grandparents and not himself** (*Mohn v. United States* case no. 17-002, U.S. Court of Appeals, defined as the “Heir Theory”). Moreover, due to plaintiff Mohn’s lack of legal experience as a pro se litigant, mistakes were made in his former suits implying he was the direct descendant of several other Cherokee families. After further investigation, Plaintiff Mohn declares he is only the direct lineal descendant of the Reese family estate and was simply publishing these other victims in Federal court in hopes that their family members would one day come forward. As a result, the Oklahoma Federal district court ruled in favor of dismissal in 2015—16, stating that plaintiff Mohn “could not file a class action suit as a non-attorney.” Furthermore, plaintiff Mohn never identified any provisions of **Federal Indian law** in any of his former cases that he has repeatedly identified in this suit.

Unlike his former cases, (except for Case no. 20-771-C *Mohn v. United States* (2020)), plaintiff Mohn declares this suit is prosecuted against the United States as the fiduciary of his trust, by him as an Indian beneficiary of full-blood Native Cherokee citizenship birthrights and a Restricted land trust for the execution of that trust. However, unlike Case no. 20-771-C, this suit is not for a mandamus to cancel the unlawful conveyance of his individual Indian Restricted lands, but a mandamus, or in any way which this Court may see fit, to recover his individual Indian funds, derived from the unlawful conveyance of his Restricted

lands, without the approval of the Secretary of Interior, which was a clear violation of a network of federal statutes and the rule of law. Therefore, plaintiff Mohn prays for a proper remedy of mandamus, or in any way which this Court may see fit, to redress his personal injury from the loss of his individual Indian funds derived from his Restricted land trust equity—488 acres of Restricted lands in the Cherokee Nation territory of the State of Oklahoma. According to Federal law, this Court has the undisputed power not only to decree the payment of money from the Treasury, which necessarily involves the power to carry out the decrees of this Court for that purpose, but as provided by section 1070 of the Revised Statutes, may exercise such powers as are necessary to carry into effect the power granted to it by law.

12. *Administrative Power—Individual Funds*

Administrative power over the funds of individual Indians, as in the case of funds belonging to Indian tribes, is derived from express statutory provision in some instances and is implied on occasion from administrative powers exercised over the alienation, leasing, or other disposition of interest in restricted land. The usual sources of individual funds are the individualization of tribal funds and the proceeds, including income, from restricted land. The individualization of tribal funds may occur through the segregation

1 of funds in the United States Treasury or the per capita payment of
 2 annuities or other tribal moneys.¹³

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 4 **13. Administrative Power—Membership**

5 **a. Authority Over Enrollment—** At various times Congress has
 6 granted to the Department of the Interior sweeping power to
 7 determine tribal membership. On other occasions it has directed the
 8 Secretary of Interior to prepare a roll of a tribe with the advice and
 9 consent of the tribal council.¹⁴
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 13 ¹³ Ibid. Pages 86—87. 25 C.F.R. 221.1 et seq. and 222.1 et seq. Sec. 2 of
 14 the act of January 27, 1933, 47 Stat. 777, authorized the Secretary to permit, ***in his
 15 discretion and subject to his approval, any Indian of the Five Civilized Tribes, over the
 16 age of twenty-one years, having restricted funds or other property subject to the
 17 supervision of the Secretary of Interior, to create and establish, out of the restricted
 18 funds or other property, trusts for the benefits of such Indian, his heirs, or other
 19 beneficiaries designated by him, such trusts to be created by contracts or agreements
 20 by and between the Indian and incorporated trust companies or such banks as may be
 21 authorized by law to act as fiduciaries or trustees.***
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23 ¹⁴ Ibid. Page 89. Act of August 9, 1946, 60 Stat. 968, 25 U.S.C. 601 et
 24 seq., Yakima tribes.
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1 “The Secretary of the Interior, who has been described by a Solicitor of his
 2 Department as ‘guardian of all Indian interests,’¹⁵ acts on behalf of the President in the
 3 administration of Indian affairs. Nevertheless, in his dealings with Indians, he does not
 4 have despotic power, but is subject to legislative restrictions. Nor should the Secretary
 5 abdicate or unlawfully transfer his authority.”¹⁶ According to Section 21 of the Curtis Act
 6 approved June 28, 1898 (30 Stat. 498, 502), * * * **That in making rolls of citizenship**
 7 **of the several tribes, as required by law, the Commission to the Five Civilized**
 8 **Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen**
 9 **hundred and eighty (not including freedmen) as the only roll intended to be**
 10 **confirmed by this and preceding Acts of Congress. * * ***

13 **In his dealings with the Indians, the Secretary of the Interior does not**
 14 **have the power of an Asiatic potentate or even of a benevolent**
 15 **despot. He, like his wards themselves, is subject to legislative**
 16 **restrictions. When the Commission proceeded in good faith to**
 17 **determine the matter and to act upon information before it, not**
 18 **arbitrarily, but according to its best judgment, we think it was the**
 19 **intention of the act that the matter, upon approval of the Secretary,**

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 23 ¹⁵ Ibid. Page 52. 42 L.D. 493, 499 (1913). *United States v. Arenas*, 158 F.
 24 2d 730, 747 (1947).

25 ¹⁶ Ibid. Page 52. 62 I.D. 284.

1 should be finally concluded and the rights of the parties forever
 2 settled, subject to such attacks as could successfully be made upon
 3 judgments of this character for fraud or mistake. * * *¹⁷

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 5 During the periods when the Federal policy was designed to
 6 integrate the Indian and curtail tribal government, this power was
 7 one of the most important administrative powers, since the sharing
 8 in tribal property usually depended upon being placed upon a roll
 9 prepared by the Department or subject to its approval. Care must be
 10 taken in ascertaining the specific purpose for which a tribal roll was
 11 made under statutory authorization.¹⁸

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 15 **“Determinations of the Dawes Commission were subject to attack for**
 16 **extrinsic fraud or mistake.”** *Tiger v. Twin State Oil Co.*, 48 F 2d 509 (C.C.A. 10, 1931).
 17 Plaintiff Mohn has clearly proven beyond a reasonable doubt that well known bank and
 18 trust land-grabber, turned DOI administrative officer, Thomas Needles, perpetrated
 19 multiple acts of aggravated felony perjury and breach of plaintiff Mohn’s citizenship
 20 birthrights and Restricted land trust, subsequently, depriving plaintiff Mohn of his full-
 21 blood Native Cherokee citizenship birthrights and unlawfully conveying his Restricted
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23 ¹⁷ Ibid. Page 47.

24 ¹⁸ Ibid. Page 89. 58 I.D. 628 and Memo. Sol. I.D., May 17, 1941.

land trust equity in the district court of Oklahoma, without the approval of the Secretary of Interior, a violation of Federal law.

In considering the jurisdiction of the Federal courts, it may be observed that under the constitution and laws of the United States the Federal courts exercise jurisdiction in two different classes of cases—cases where the jurisdiction depends upon the character of the parties, and cases where the jurisdiction depends upon the subject matter of the suit. The distinction between these two classes of cases has been recognized from the beginning. Thus, in *Cohens v. Virginia* the Supreme Court of the United States, speaking through Mr. Justice Marshall, said:

In one description of cases, the jurisdiction of the court is founded entirely on the character of the parties; and the nature of the controversy is not contemplated by the constitution—the character of the parties is everything, the nature of the case nothing.¹⁹

Taking this proposition as a point of departure we shall consider the subject briefly, insofar as the Indians are concerned, under the following headings: **cases where individual Indians are plaintiffs, defendants or interveners.**

(2) *United States as defendant.* —The general rule is that the United States cannot be sued in any court, whether State or Federal, without

¹⁹ Ibid. Page 326—327.

1 **its consent. Such consent has been granted with respect to tort**
 2 **claims which accrued on or after January 1, 1945, and this remedy is**
 3 **available to individual Indians.**²⁰
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5 We have seen that when the partition of the common property came to be made
 6 among the citizens of the Cherokee Nation per capita, the Dawes Commission was
 7 ordered to make a roll of Cherokees in strict compliance with Section 21 of the Curtis
 8 Act approved June 28, 1898. This direction was supplemented by Section 27 of the act
 9 of July 1, 1902, which provided that “such rolls shall in all other respects be made in
 10 strict compliance with the provisions of section 21 of the act of Congress approved June
 11 28, 1898.” **“For example, such power in the form of original jurisdiction has been**
 12 **vested by Congress in the Federal district courts to hear any civil action involving**
 13 **the right of an Indian to an allotment of land under any act of Congress.”**²¹
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16 **(5) Individual Indian as party litigant. —As a general rule, an Indian,**
 17 **irrespective of his citizenship or tribal relations, may sue in any State**
 18 **court of competent jurisdiction to redress any wrong committed**
 19 **against his person or property outside the limits of the reservation**
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 22 ²⁰ Ibid. Pages 337—338. *Hatahley et al. v. United States*, 351 U.S. 173,
 23 181 (1956). Cf. Op. Sol. M 34583, January 8, 1947. See also Op. Sol. M. 36110,
 24 December 4, 1951.

25 ²¹ Ibid. Page 326. United States Constitution, art. III, sec. 1.
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(United States v. Seneca Nation of New York Indians, 274 Fed. 946, 950 (1921). This being true, the only grounds upon which a Federal court could take jurisdiction of a suit by an Indian would be either because of diversity of citizenship between the plaintiff and defendant or because the cause of action arose under the Constitution, treaties, or laws of the United States.²²

If the 1901 decree by DOI Secretary Hitchcock to the Dawes Commission was a compliance with the aforementioned statutes of Federal Indian law, the refusal of his subordinates, administrative officers Thomas Needles (in 1901) and Eddie Streater (in 2014), to allow plaintiff Mohn to participate in his rightfully entitled full-blood Native Cherokee citizenship birthrights and the individual Indian funds of his Restricted property, as directed by the U.S. Constitution, is not a strict compliance, nor, for that matter, a compliance of any kind. Clearly, the United States cannot show just cause for the continuous degrading actions by the DOI, which have exceeded the ministerial authority conferred upon the Secretary of Interior by Congress. **While the power of revision and correction, which was granted to the Secretary of Interior, ended with the closing of the rolls on March 4, 1907, * * * the obligation of Congress to place upon the tribal roll those members of the tribe who were entitled to be thereon under the standards as they existed in 1907, did not end with the closing**

²² Ibid. Pages 341—342.

1 of the roll in 1907. Congress was much obligated to * * * members of the tribe who
2 met those standards as it was to the Choctaws who were on the rolls in 1907, and
3 * * * it had the power to correct the error of omission * * *.”²³

4 Two things decisive in this case have repeatedly been proven by plaintiff
5 Mohn: First, according to the Curtis Act of June 28, 1898, plaintiff Mohn is the
6 direct lineal descendant of full-blood Native Cherokees, unlawfully degraded to
7 Cherokee Freedmen by the DOI, despite never being Cherokee African slaves to
8 begin with; Second, citizenship alone constitutes the right which entitles plaintiff
9 Mohn to share in the Restricted property and individual Indian funds of the
10 Cherokee Nation of Oklahoma.
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23 ²³ Ibid. Page 1005. *Choctaw Nation v. United States*, 100 F. Supp. 318,
24 325 (1951), cert. den. 343 U.S. 955 (1952).
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MEMORANDUM IN SUPPORT INDIVIDUAL INDIAN RESTRICTED FUNDS

The unlawful conveyances of 488 acres of Restricted lands which this suit was brought to cancel were allotted to the Reese family, of all whom were members of the Cherokee tribe of Indians, of the full blood, in severalty. The statute under which the allotments were made (act of Congress approved July 1, 1902 (c. 1375, 32 Stat. 716, 720), accepted by the Cherokee nation on August 7, 1902, provided that the lands should be inalienable for a period specified. Sections 11-15 (Id., p. 717). The lands in question were homesteads. **The act of May 27, 1908, together with the 1906 act, and the acts of April 12, 1926, May 10, 1928, May 24, 1928, January 27, 1933, July 2, 1945, August 4, 1947, and act of August 11, 1955, are the principle statutes defining or removing restrictions, and the corresponding tax exemptions, with reference to the property of the Five Civilized Tribes. By the act of May 10, 1928, restrictions on alienation of allotments of allottees of halfblood or more were extended until April 26, 1956. The act of August 11, 1955 (69 Stat. 666) further extended the period of restrictions for the lives of the Indians then owning the restricted lands.²⁴ Exercise by Congress of its plenary power in Indian affairs to**

²⁴ *Fred A Seaton, Secretary. OFFICE OF THE SOLICITOR. Elmer F. Bennett, Solicitor. (2008) FEDERAL INDIAN LAW. Clark, New Jersey. THE LAWBOOK EXCHANGE, LTD. Page 1014—1016. Originally published: Washington: U.S. Govt. Print. Off., 1958. "United States Department of Interior, Fred A. Seaton, Secretary.*

enact curative measures may be illustrated by reference to *United States v. Hellard* (322 U.S. 363(1944)). The Supreme Court had held that the appearance and participation of a United States probate attorney in a State proceeding for the partitioning of restricted land did not make the judgment of the Court binding on the United States. Congress passed a corrective act of July 2, 1945 (59 Stat. 313, 25 U.S.C. 355 note.), which stated that in section 3 that no order, judgment, or decree in partition made subsequent to the effective date of the act of June 14, 1918, and prior to July 2, 1945 (59 Stat. 313, 25 U.S.C. 355 note.), involving inherited restricted lands of members of the Five Civilized Tribes should be void or invalid because the United States was not a party or because it had not been properly served.²⁵

I. STATEMENT OF THE ISSUES

- 1. Whether Plaintiff Mohn is a direct lineal descendant of full-blood Native Cherokees citizens of the Cherokee Nation of Oklahoma, as opposed to Cherokee Freedmen, according to the U.S. Constitution?**

Office of the Solicitor. Elmer F. Bennett, Solicitor.” Pages. 464—465. *Smith v. McCullough*, 270 U.S. 456 (1926).

²⁵ Ibid. Page 1029.

- 1 **2. Whether Congress approved laws to protect the citizenship**
2 **birthrights and Restricted lands of full-blood Native Cherokees and**
3 **their direct lineal descendants, into perpetuity?**
4
- 5 **3. Whether the jurisdictional act of Congress approved October 1, 1890**
6 **(26 Stat. at L. 636, chap. 1249), the decree of the U.S. Court of Federal**
7 **Claims rendered February 3, 1896, Sect. 4 of the Act of April 26, 1906**
8 **(34 Stat. 137, c. 1876), the All Writs Act, 28 U.S.C. § 1651(a) (1948),**
9 **and 28 U.S.C. § 1505 (1949) granted the U.S. Court of Federal Claims**
10 **jurisdictional supervision to redress the unwarranted actions**
11 **unknowingly approved by the Secretary of Interior?**
12
13
- 14 **4. Whether a branch of government called the Dawes commission was:**
15 **1) a “Tribunal” or administrative officers doing administrative work;**
16 **2) a judicial body, or subordinates to the Secretary of Interior;**
17 **3) granted judicial authority by Congress, or were their actions a**
18 **usurpation of judicial power?**
19
20
- 21 **5. Whether this court can use res judicata to dismiss pro se Plaintiff**
22 **Mohn’s claim, although he has now declared a personal injury of the**
23 **loss of his individual Indian funds derived from his Restricted lands**
24 **and mandamus is the proper remedy, as opposed to his “heir**
25
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**theory” in his former cases, incorrectly filing a class action and the
False Claims act to defend the rights of only his great grandparents,
and not himself?**

1 Plaintiff Mohn is a registered member of the federally recognized Cherokee
 2 Nation of Oklahoma. Plaintiff Mohn is the direct lineal descendant of the members of the
 3 Reese family (Jesse Reese, Betsy Reese, James Reese, (Lee) Anderson Reese).
 4 According to Page 165 of the *1880 Authenticated Cherokee Nation Final Roll*, the
 5 names of Plaintiff Mohn's full-blood Native Cherokee direct lineal ancestors from the
 6 Reese family are identified as follows: (#2437) Jesse Reese, (#2438) Betsy Reese,
 7 (#2440) Jennie [Jimmie] Reese. **Under the "Native or Adopted" column and "Race**
 8 **or Prior Nationality" column, the entire Reese family was confirmed by the**
 9 **Cherokee Nation as "Native Cherokees" ("N" means Native. "Cher." means**
 10 **Cherokee).** According to this roll, the Reese family only knew the Cherokee language
 11 and could not read or write English. The original transcript of the *1880 Authenticated*
 12 *Cherokee Nation Final Roll* was used by the Dawes Commission for verification of
 13 citizenship in the Cherokee Nation for purposes of allotment of land in severalty.
 14

15
 16 It was a notorious fact, however, that one particular roll of certain citizens of the
 17 Cherokee Nation was fraudulent and unfair; that the nation had refused to authenticate
 18 one or more of its own rolls, and that the last roll it had authenticated was the roll of
 19 1880. Therefore, by the subsequent Act of June 7, 1897, (30 Stat. 62), Congress
 20 provided that the words, "rolls of citizenship," as used in the Act of June 10, 1896 (29
 21 Stat. 321, 339-340), "shall be construed to mean the last authenticated roll of each tribe,
 22 which have been approved by the council of the nation." In 1880, the Cherokees had
 23 taken a complete census, authorized by an Act of the Cherokee National Council
 24 (Senate Bill No. 33) of December 1, 1879 and approved by an Act of December 9, 1880
 25
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(Senate Bill No. 58), that was considered by the U.S. Congress to be a fair and just roll of citizens that was “carefully and correctly made.” Therefore, it was the only tribal roll that was specifically confirmed by Congress in the Curtis Law for the basis for enrollment. This important base roll of the Cherokee Nation is stored at the United States National Archives, filed under the microfilm no. 7RA06.

1. Act of Congress approved June 10, 1896 (29 Stat. 321, 339-340), “Last authenticated roll of each tribe.”

This report of the Acting Commissioner of Indian Affairs was transmitted by the Department for consideration, report, and recommendation on October 23, 1902 (I. T. D., 6496–1902).

The Commission has to report that from the inception of the work of the enrollment of the citizens of the Choctaw and Chickasaw nations every possible effort has been made to obtain from the tribal authorities of these two nations any rolls of citizenship that they might have in their possession. The first step taken in this direction was after the approval of the act of Congress on June 10, 1896, when request was made of the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation to furnish the Commission the last authenticated roll of citizens of these two tribes made prior to June 10, 1896, and all other rolls made subsequent thereto, with

such copies of the acts of legislature and the national council of the two nations, the judgments of citizenship courts or Commission as may have been rendered since the date of the last authenticated rolls, admitting persons to citizenship in the Choctaw and Chickasaw nations, and such other records and documents as might be in any manner helpful to the commission in making rolls of the citizens of the two nations in accordance with the acts of Congress of June 10, 1896, and June 7, 1897.²⁶

2. Act of Congress approved June 7, 1897, (30 Stat. 62). "Rolls of citizenship."

The June 7, 1897, Indian Appropriation Act that gutted the tribal courts and legislatures clarified what was meant by "tribal rolls." The act defined them as the "last authenticated rolls" approved by the council of each nation (the Creek National Council had still not authenticated any roll) plus the names of any descendants, plus any names added by the tribal council (228 for the Creeks), the U.S. court (70), or the Dawes Commission (255). On June 20, 1897, the Dawes Commission sent a request to each tribe for a copy of its "last authenticated roll" and copies of any laws relating to citizenship.

²⁶ "CITIZENSHIP IN THE CHOCTAW AND CHICKASAW NATIONS. HEARINGS.

BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS, HOUSE OF REPRESENTATIVES" Government Printing Office (1908). Washington, D.C.

1 Curtis Act of Congress approved June 28, 1898 (30 Stat. 498, 502).

2
3 CHAP. 517.-An Act For the protection of the people of the Indian
4 Territory, and for other purposes.

5 Be it enacted by the Senate and House of Representatives of the
6 United States of America in Congress assembled, That in all criminal
7 prosecutions in the Indian Territory against officials for
8 embezzlement, bribery, and embracery the word "officer," when the
9 same appears in the criminal laws heretofore extended over and put
10 in force in said Territory, shall include all officers of the several
11 tribes or nations of Indians in said Territory...

12
13 SEC. 21. That in making rolls of citizenship of the several tribes, as
14 required by law, the Commission to the Five Civilized Tribes is
15 authorized and directed to take the roll of Cherokee citizens of
16 eighteen hundred and eighty (not including freedmen) as the only
17 roll intended to be confirmed by this and preceding Acts of
18 Congress, and to enroll all persons now living whose names are
19 found on said roll, and all descendants born since the date of said
20 roll to persons whose names are found thereon; and all persons who
21 have been enrolled by the tribal authorities who have heretofore
22 made permanent settlement in the Cherokee Nation whose parents,
23 by reason of their Cherokee blood, have been lawfully admitted to
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1 citizenship by the tribal authorities, and who were minors when their
 2 parents were so admitted; and they shall investigate the right of all
 3 other persons whose names are found on any other rolls and omit all
 4 such as may have been placed thereon by fraud or without authority
 5 of law, enrolling only such as may have lawful right thereto, and their
 6 descendants born since such rolls were made, with such
 7 intermarried white persons as may be entitled to citizenship under
 8 Cherokee laws.
 9

10 **3. Act of Congress approved July 1, 1902 (c. 1375, 32 Stat. 716, 720).**
 11

12 **CHAP. 1375.-An Act To provide for the allotment of the lands of the**
 13 **Cherokee Nation, for the disposition of town sites therein, and for**
 14 **other purposes...**

15 **Be it enacted by the Senate and House of Representatives of the**
 16 **United States of America in Congress assembled,**
 17 **Preparation. Vol. 30, p. 502.**

18 **SEC. 27. Such rolls shall in all other respects be made in strict**
 19 **compliance with the provisions of section twenty-one of the Act of**
 20 **Congress approved June twenty-eighth, eighteen hundred and**
 21 **ninety-eight (Thirtieth Statutes, page four hundred and ninety-five),**
 22 **and the Act of Congress approved May thirty-first, nineteen hundred**
 23 **(Thirty-first Statutes, page two hundred and twenty-one).**
 24
 25
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B. Full-blood Indians of the Five Civilized Tribes May Not Be Divested of Title to Restricted Land by A Sale Pursuant to A Judgment of a State Court in a Partition Proceeding to Which the United States Was Not A Party

1. Act of Congress approved May 27, 1908 (35 Stat. 312).

All homesteads of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood, including minors of such degrees of blood, and all allotted lands of enrolled full-bloods, and enrolled mixed-bloods of three-quarters or more Indian blood, including minors of such degrees of blood, shall not be subject to alienation, contract to sell, power of attorney, or any other incumbrance prior to April twenty-sixth, nine teen hundred and thirty-one, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe... SEC.6. And said representatives of the Secretary of the Interior are further authorized, and it is made their duty, to counsel and advise all allottees, adult or minor, having restricted lands of all of their legal rights with reference to their restricted lands, without charge, and to advise them in the preparation of all leases authorized by law to be made, and at the request of any allottee having restricted land he shall,

1 without charge, except the necessary court and recording fees and
2 expenses, if any, in the name of the allottee, take such steps as may
3 be necessary, including the bringing of any suit or suits and the
4 prosecution and appeal thereof, to cancel and annul any deed,
5 conveyance, mortgage, lease, contract to sell, power of attorney, or
6 any other encumbrance of any kind or character, made or attempted
7 to be made or executed in violation of this Act or any other Act of
8 Congress, and to take all steps necessary to assist said allottees in
9 acquiring and retaining possession of their restricted
10 lands...Nothing in this act shall be construed as denial of the right of
11 the United States to take such steps as may be necessary, including
12 the bringing of any suit and the prosecution and appeal thereof, to
13 acquire or retain possession of restricted Indian lands, or to remove
14 cloud therefrom, or clear title to the same, in cases where deeds,
15 leases or contracts of any other kind or character whatsoever have
16 been or shall be made contrary to law with respect to such lands
17 prior to the removal therefrom of restrictions upon the alienation
18 thereof; such suits to be brought on the recommendation of the
19 Secretary of the Interior, without costs or charges to the allottees,
20 the necessary expenses incurred in so doing to be defrayed from the
21 money appropriated by this act...SEC.9. Provided further, That if any
22 member of the Five Civilized Tribes of one-half or more Indian blood
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1 shall die leaving issue surviving, born since March fourth, nineteen
2 hundred and six, the homestead of such deceased allottee shall
3 remain inalienable, unless restrictions against alienation are
4 removed therefrom by the Secretary of Interior in the manner
5 provided in section one hereof, for the use and support of such
6 issue, during their life or lives, until April twenty-sixth, nineteen
7 hundred and thirty-one.
8

9
10 **2. Section 8 of the Act of Congress approved January 27, 1933 (Chap. 23, H.R.**
11 **8750. 47 Stat. 777).**
12

13 **Be it enacted by the Senate and House of Representatives of the**
14 **United States of America in Congress assembled, That all funds and**
15 **other securities now held by or which may hereafter come under the**
16 **supervision of the Secretary of the Interior, belonging to and only so**
17 **long as belonging to Indians of the Five Civilized Tribes in Oklahoma**
18 **of one-half or more Indian blood, enrolled or unenrolled, are hereby**
19 **declared to be restricted and shall remain subject to the jurisdiction**
20 **of said Secretary until April 26, 1956, subject to expenditure in the**
21 **meantime for the use and benefit of the individual Indians to whom**
22 **such funds and securities belong, under such rules and regulations**
23 **as said Secretary may prescribe.**
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1 **3. *United States v. Hellard* 322 U.S. 363 (1944).**

2
3 **CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE**
4 **TENTH CIRCUIT**

5 **No. 648.**

6 **Argued April 28, 1944. Decided May 15, 1944.**

7
8 **Full-blood Indians of the Five Civilized Tribes may not be divested of**
9 **title to restricted land by a sale pursuant to a judgment of a state**
10 **court in a partition proceeding to which the United States was not a**
11 **party. Construing Act of June 14, 1918; Act of April 12, 1926. P. 368.**
12 **138 F.2d 985, reversed.**

13
14
15 *** * * The act of May 27, 1908, together with the 1906 act, and the acts of April**
16 **12, 1926, May 10, 1928, May 24, 1928, January 27, 1933, July 2, 1945, August 4,**
17 **1947, and act of August 11, 1955, are the principle statutes defining or removing**
18 **restrictions, and the corresponding tax exemptions, with reference to the**
19 **property of the Five Civilized Tribes. By the act of May 10, 1928, restrictions on**
20 **alienation of allotments of allottees of halfblood or more were extended until April**
21 **26, 1956. The act of August 11, 1955 (69 Stat. 666) further extended the period of**
22

1 restrictions for the lives of the Indians then owning the restricted lands.²⁷
 2 Exercise by Congress of its plenary power in Indian affairs to enact curative
 3 measures may be illustrated by reference to *United States v. Hellard* (322 U.S.
 4 363(1944)). The Supreme Court had held that the appearance and participation of
 5 a United States probate attorney in a State proceeding for the partitioning of
 6 restricted land did not make the judgment of the Court binding on the United
 7 States. Congress passed a corrective act of July 2, 1945 (59 Stat. 313, 25 U.S.C.
 8 355 note.), which stated that in section 3 that no order, judgment, or decree in
 9 partition made subsequent to the effective date of the act of June 14, 1918, and
 10 prior to July 2, 1945 (59 Stat. 313, 25 U.S.C. 355 note.), involving inherited
 11 restricted lands of members of the Five Civilized Tribes should be void or invalid
 12 because the United States was not a party or because it had not been properly
 13 served. * * * 28

17 ²⁷ *Fred A Seaton, Secretary. OFFICE OF THE SOLICITOR. Elmer F.*
 18 *Bennett, Solicitor. (2008) FEDERAL INDIAN LAW. Clark, New Jersey. THE LAWBOOK*
 19 *EXCHANGE, LTD. Pages 1014—1016. Originally published: Washington: U.S. Govt.*
 20 *Print. Off., 1958. "United States Department of Interior, Fred A. Seaton, Secretary.*
 21 *Office of the Solicitor. Elmer F. Bennett, Solicitor." Pages. 464—465. Smith v.*
 22 *McCullough, 270 U.S. 456 (1926).*

24 ²⁸ *Ibid.* Page 1029.

1 **4. Title 25 – INDIANS CHAPTER 3 - AGREEMENTS WITH INDIANS SUBCHAPTER**
2 **II - CONTRACTS WITH INDIANS Sec. 81 (2011).**
3

4 **(b) Approval**

5 **No agreement or contract with an Indian tribe that encumbers Indian**
6 **lands for a period of 7 or more years shall be valid unless that**
7 **agreement or contract bears the approval of the Secretary of the**
8 **Interior or a designee of the Secretary.**
9

10
11 **C. Causation: The Multiple Aggravated Felony Perjury Crimes of Administrative**
12 **Officer Thomas Needles**

13 First, Thomas B. Needles intentionally committed aggravated felony perjury by
14 falsely stating under oath that Betsy Reese's name was Betsy Buffington, in 1880.
15 Then, on the very next lines of his official testimony, Needles contradicted his perjured
16 testimony by stating that the name of Betsy Reese was identified on the *1880*
17 *Authenticated Cherokee Nation Final Roll* as a full-blood "Native Cherokee." Despite
18 confirming Betsy Reese's full-blood Native Cherokee citizenship on the 1880 "last
19 authenticated roll of the Cherokee Nation of Oklahoma," Needles degraded her full-
20 blood Native Cherokee citizenship to "Cherokee Freedmen" on the racist Jim Crow era,
21 federally perjured, *1898—1914 Commission of the Five Civilized Tribes Roll*.
22

23
24 Again, Thomas Needles intentionally committed aggravated felony perjury by
25 falsely stating under oath that Jesse Reese was a slave of a fake slave owner
26
27

1 conveniently named Jesse Reese. According to federal and tribal records, prior to 1900,
2 no other person by the name of Jesse Reese ever existed in the Cherokee Nation,
3 Indian Territory. Again, on the very next lines of his official testimony, Needles
4 contradicted his perjured testimony by stating that the name of Jesse Reese was
5 identified on the *1880 Authenticated Cherokee Nation Final Roll* as a full-blood “Native
6 Cherokee.” Despite confirming Jesse Reese’s full-blood Native Cherokee citizenship on
7 the 1880 “last authenticated roll” of the Cherokee Nation of Oklahoma, Needles
8 unlawfully degraded his full-blood Native Cherokee citizenship to “Cherokee Freedmen”
9 on the racist Jim Crow era, federally perjured, *1898—1914 Commission of the Five*
10 *Civilized Tribes Roll*.
11

12 Again, the records in charge of the Commission of the Five Civilized Tribes
13 clearly show that the application for enrollment of Jesse Reese, Betsy Reese, and
14 James Reese as a citizen by blood was made in 1901, within the time prescribed by
15 law. According to the DOI *1898—1914 Commission of the Five Civilized Tribes Roll*,
16 administrative officer Thomas Needles verified that the entire Reese family was
17 identified on the *1880 Authenticated Cherokee Nation Final Roll* as full-blood “Native
18 Cherokees.” Therefore, according to Section 21 of the Curtis Act approved June 28,
19 1898 (30 Stat. 498, 502), Section 27 of the Act of July 1, 1902 (c. 1375, 32 Stat. 716,
20 720), and Section 4 of the Act of April 26, 1906 (34 Stat. 137, c. 1876), these records
21 are conclusive as to the fact to such application. Undoubtedly, Plaintiff Mohn has
22 identified a network of Federal statutes and legal precedent allowing him to be
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transferred to the full-blood “Native Cherokee by blood” roll by mandamus to restore his citizenship birthrights and Restricted land trust already existing.

1 **D. Injury-In-Fact: The Degradation of Plaintiff Mohn's Full-blood Native Cherokee**
2 **Citizenship Birthrights**

3 Section 21 gives full and explicit directions as to how the Commission shall make the
4 rolls and particularly what roll of the Cherokee Nation was intended to be confirmed by it
5 and previous Acts of Congress. Plaintiff Mohn continually suffers from an invasion of his
6 trust, or legally protected interest; his full-blood Native Cherokee citizenship birthrights
7 trust and Restricted land trust, which are (a) concrete and particularized, according to
8 federal law, and (b) actual or imminent (that is, neither conjectural nor hypothetical; not
9 abstract). Every citizen shown on the roll made by the Commission in accordance with
10 the provisions of the Curtis Bill had to receive an allotment. **Citizenship alone**
11 **constituted the right which entitled one to share in the property of the several**
12 **nations.**
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1 **III. ARGUMENT**

2 **A. The U.S. Court of Claims Has Subject-Matter Jurisdiction Over Plaintiff**
3 **Mohn's Claims**

- 4
5 1. Jurisdictional Act of Congress approved October 1, 1890 (26 Stat. at
6 L. 636, chap. 1249).

7 *Be it enacted by the Senate and House of Representatives of the*
8 *United States of America in Congress assembled,*
9 *assembled, That full jurisdiction is hereby conferred upon the Court*
10 *of Claims, subject to an appeal to the Supreme Court of the United*
11 *States as in other cases, to hear and determine what are the just*
12 *rights in law, or in equity* of the Shawnee and Delaware Indians, who
13 are settled and incorporated into the Cherokee Nation, Indian
14 Territory, east of ninety-six degrees west longitude, under the
15 provisions of the article fifteen of the treaty of July nineteenth,
16 eighteen hundred and sixty-six, made by and between the United
17 States and the Cherokee Nation and articles of agreement made by
18 and between the Cherokee Nation and the Shawnee
19 Indians...approved by the President June ninth, eighteen hundred
20 and sixty-nine, and articles of agreement made with the Delaware
21 Indians, April eighth, eighteen hundred and sixty-seven; and also of
22 the Cherokee freedmen, who are settled and located in the Cherokee
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1 Nation under the provisions and stipulation of article nine of the
2 aforesaid treaty of eighteen hundred and sixty-six in respect to the
3 subject-matter herein provided for.

4 SEC. 2. That the said Shawnees, Delawares, and freedmen shall have
5 a right, either separately or jointly, to begin and prosecute a suit or
6 suits against the Cherokee Nation and the United States Government
7 to recover from the Cherokee Nation all moneys due either in law or
8 equity and unpaid to the said Shawnees, Delawares, or freedmen ,
9 which the Cherokee Nation have before paid wit, or may hereafter
10 pay, per capita, in the Cherokee Nation, and which was, or may be,
11 refused to or neglected to be paid to the said Shawnees, Delawares,
12 or freedmen by the Cherokee Nation, out of any money or funds
13 which have been, or may be, paid into the treasury of, or in any way
14 have come, or may come, into the possession of the Cherokee
15 Nation, Indian Territory, derived from the sale, leasing, or rent for
16 grazing purposes on Cherokee lands west of ninety six degrees west
17 longitude, and which have been , or may be, appropriated and
18 directed to be paid out per capita by the acts passed by the
19 Cherokee council, and for all moneys, lands, and rights which shall
20 appear to be due to the said Shawnees, Delawares, or freedmen
21 under the provisions of the aforesaid articles of the treaty and
22 articles of agreement. SEC. 3. That the said suit or suits may be
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1 brought in the name of the principal chief or chiefs of the said
2 Shawnee and Delaware Indians, and for the freedmen, and in their
3 behalf and for their use, in the name of some person as their trustee,
4 to be selected by them with the approval of the Secretary of the
5 Interior, and the exercise of such jurisdiction shall not be barred by
6 any lapse of time heretofore, nor shall the rights of such Indians be
7 impaired by any acts passed and approved by the Cherokee national
8 council. Suits may be instituted within twelve months after the
9 passage of this act, and the law and practice and rules of procedure
10 in such courts shall be the practice and law in these cases...and all
11 judgments for any sum or sums of money which may be ordered or
12 decreed by such court in favor of the Shawnees, Delawares, or
13 freedmen , and against the Cherokee Nation, shall be enforced by the
14 said court or courts against the said Cherokee Nation by execution,
15 mandamus, or in any other way which the court may see fit.

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18 SEC. 4. That the said Shawnee Indians are hereby authorized and
19 empowered to bring and begin a suit in law or equity against the
20 United States Government in the Court of Claims to recover and
21 collect from the United States Government any amount of money
22 that in law or equity is due from the United States to said tribes in
23 reimbursement of their tribal fund for money wrongfully diverted
24 therefrom. The right of appeal, jurisdiction of the court, process,
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1 procedure, and proceedings in the suit here provided for shall be as
2 provided for in sections one, two, and three of this act. Approved,
3 October 1, 1890. (26 Stat. L., p. 636.)
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6 **2. Decree of the U.S. Court of Federal Claims rendered February 3, 1896**

7 The final decree of February 3, 1896 was entered by the consent of all the
8 parties involved. For that reason, there was no appeal. The issues had been actively
9 litigated, and the court undertook the duty of identifying the individuals entitled to share
10 in everything that was to be allotted or distributed. The defendants made no objections
11 and acquiesced in the terms of the decree for the distribution of that part of the property
12 then ready to be distributed. And it was provided that the Commission should make a
13 roll of Cherokee freedmen in strict compliance with the decree of the Court of Claims,
14 rendered the third day of February, eighteen hundred and ninety-six. **Thus, the court**
15 **continued its jurisdictional supervision without interfering with the discretion of**
16 **the Secretary of the Interior or the Dawes commission so long as no complaint**
17 **was made that the commission were violating the terms of the decree.** The intent
18 of Congress is plain that the decree of the court should not be ignored in all prospective
19 or future distributions of communal property.
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B. The Usurpation of Judicial Power by A Ministerial Authority

1. The U.S. Dept. of Interior's Overthrow of the U.S. Court of Federal Claims

The U.S. Supreme Court has always rejected the usurpation of judicial power by the Dawes Commission. More importantly, the U.S. Supreme Court has consistently cancelled the unlawful conveyance of the Restricted lands of full-blood Native Cherokees, Chickasaws, Choctaws, Creeks, and Seminoles, and members of the Delaware and Shawnee tribes incorporated into the Cherokee Nation of Oklahoma in 1869. See *Garfield v. Goldsby* (211 U.S. 249 (1908)); *Wallace v. Adams* (204 U.S. 415 (1907)); *Cherokee Nation v. Whitmire* (223 U.S. 108 (1912)); *Heckman v. United States* (224 U.S. 413 (1912)); *United States v. Hellard* (322 U.S. 363 (1944)); *Chapman v. Tiger* (OK 181, 356 P. 2d 571 (1960)).

Administrative officer Needle's usurpation of judicial power by his felonious actions was designed to not only undermine the decree of his boss's boss, Secretary Hitchcock, but the constitutional system of both the United States and the Cherokee Nation of Oklahoma. His motive as the President of the secretly formed First National Bank, was to land-grab as much valuable Restricted land as possible. As a result, the entire Dawes Commission was abolished by the Secretary of Interior (from 1904—1914). Therefore, it can be fairly inferred from a network of statutes, regulations, and legal precedence that the unlawful actions of administrative officer Needles were perpetrated in "ultra vires," not only beyond his own scope of ministerial authority, but beyond the Secretary of Interior's scope of ministerial authority, as well.

a. The Racist “Dawes Commission Is A Tribunal” Theory

The following false statements and intentional omissions of federal law were stated by U.S. Dept. of Interior Bureau of Indian Affairs (BIA) tribal officer Eddie Streater in his official correspondence to Plaintiff Mohn in support of his denial of Plaintiff Mohn’s Certificate of Degree of Indian Blood (CDIB) claim:

In one of the earliest cases challenging the Commission’s work, the Court of Appeals held that: ...under these acts of Congress, the Commission to the Five Civilized Tribes is a special Tribunal, vested with judicial power to hear and determine the claims of all applicants to citizenship in the Five Civilized Tribes and its enrollment or refusal to enroll the applicant in each particular case constitutes its judgment in that cause. In the case before us, this Tribunal has heard and determined the claim of the plaintiff. Whether its decision was right or wrong is immaterial in this court and that question will not be considered. Congress saw fit to entrust to the judicial discretion of the Commission the determination of the application of the plaintiff in error, and of every question of law and of fact which that decision involved...[and] no court has jurisdiction...to substitute its own opinion for that of the Tribunal to which the law entrusted that decisions of these questions, to control the judicial discretion of that Tribunal, to correct its errors, or to reverse its decision.

1 **C. The Fiduciary May Not Allow Trust Property to Fall to Ruin**

2 In *United States v. White Mountain Apache Tribe*, 537 U.S. 465 (2003), the Supreme
3 Court held:

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5 **While it is true that the 1960 Act does not, like the statutes cited in**
6 **that case [Mitchell II], expressly subject the Government to duties of**
7 **management and conservation, the fact that the property occupied**
8 **by the United States is expressly subject to a trust supports a fair**
9 **inference that an obligation to preserve the property improvements**
10 **was incumbent on the United States as trustee. This is so because**
11 **elementary trust law, after all, confirms the commonsense**
12 **assumption that a fiduciary actually administering trust property may**
13 **not allow it to fall into ruin on his watch. 'One of the fundamental**
14 **common-law duties of a trustee is to preserve and maintain trust**
15 **assets.'** (Citations omitted).
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1 **IV. RESTRICTED FUNDS OF MEMBERS OF FIVE TRIBES**

2 The act of January 27, 1933 (47 Stat. 777), provided that all funds and
3 other securities held under the supervision of the Secretary of
4 Interior belonging to Indians of the Five Civilized Tribes in Oklahoma
5 of one-half or more Indian blood, enrolled or unenrolled, shall be
6 restricted and shall remain under the jurisdiction of the Secretary
7 until April 26, 1956, 'subject to expenditure in the meantime for the
8 use and benefit of the individual Indians' who own them, under rules
9 and regulations prescribed by the Secretary.²⁹

11 The Secretary was empowered to permit any adult Indian of the Five
12 Civilized Tribes to create and establish out of restricted funds or
13 other property under the Secretary's supervision, trusts for a
14 maximum period of 21 years after the death of the last survivor of the
15 named beneficiaries in the respective trust period, for the benefit of
16 such Indian, his heirs or other designated beneficiaries, by contracts
17 or agreements between the Indian and incorporated trust companies
18 or banks.

20 No trust company or bank may act as a trustee in any trust created
21 under this act 'which has paid or promised to pay to any person

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²⁹ Ibid. Page 1022.

1 other than an officer or employee on the regular pay roll thereof any
2 charge, fee, commission, or remuneration for any service or
3 influence in securing or attempting to secure for it the trusteeship in
4 any trust.' Trust agreements or contracts made prior to January 27,
5 1933, the day of the law's approval, and not approved prior to such
6 enactment by the Secretary of the Interior, are declared void.
7

8 The Secretary is authorized to transfer the funds or property required
9 by the terms of an approved trust agreement to the trustee, which
10 must keep these assets segregated from all other assets.
11

12 None of the restrictions upon the corpus under the terms of the trust
13 agreement may be released during the restrictive period, except as
14 provided by such agreement, and neither the corpus of said trust nor
15 the income derived therefrom, during the restrictive period, provided
16 by law, is alienable.
17

18 The trustee is to render an annual accounting to the Secretary and
19 the beneficiary.
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21 Such trust agreements are irrevocable except with the Secretary's
22 consent. If a trust agreement is annulled, the corpus of the trust
23 estate with all accrued and unpaid interest must be returned to the
24 Secretary as restricted individual Indian property.
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1 Illegally procured trusts are to be canceled by proceedings instituted
2 by the Attorney General in the Federal courts.³⁰
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24 ³⁰ Ibid. Act of January 27, 1933, sec. 6. Page 1023.
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V. INHERITANCE AMONG FIVE CIVILIZED TRIBES³¹

a. *Intestate Succession.* —Among the Five Civilized Tribes, as among other tribes, tribal law once governed descent, to the extent it was governed at all, in the absence of congressional legislation. The General Allotment Act did not apply to the Five Civilized Tribes which were covered by special acts, and so its provisions on inheritance had no application to these tribes.³²

c. *Probate Jurisdiction.* —The act of May 27, 1908 (35 Stat. 312), was enacted, it is said, as part of the plan for removal of restrictions from Indian lands of the Five Civilized Tribes.

³¹ Ibid. Page 1023. The act of June 25, 1910, 36 Stat. 855, 863, which provided, among other things, for the determination of heirs of deceased Indians, excluded the Five Civilized Tribes (sec. 33), except for the following provision: * * * Sec. 32. Where deeds to tribal lands in the Five Civilized Tribes have been or may be issued, in pursuance of any tribal agreement or Act of congress, to a person who had died, or who hereafter dies before the approval of such deed, the title to the land designated therein shall inure to and become vested in the heirs, devisees, or assigns of such deceased grantee as if the deed had issued to the deceased grantee during life. * * *

³² Ibid. Page 1023.

Section 6 conferred jurisdiction upon the probate (county) courts of the State of Oklahoma over the estates of Indian minors and incompetents of the Five Civilized Tribes. The probate court was also given, by section 9, authority to approve conveyances by fullblood heirs.³³

d. Provisions were also made for the appointment of probate attorneys by the Secretary of the Interior, with prescribed duties relating to restricted lands.³⁴

Section 4 of the act of August 4, 1947 (61 Stat. 731.), authorized these probate attorneys to appear and represent any restricted Indian of the Five Civilized Tribes before any of the courts of the State of Oklahoma in any matter in which the restricted Indian may have an interest.³⁵ Section 1 of the act of

³³ Ibid. Page 1026. Amended by act of April 12, 1926, 44 Stat. 239, and act of May 10, 1928, sec. 2, 45 Stat. 495, so as to extend to conveyances by fullblood devisees of the allottee. See *Grisso v. United States*, 138 F. 2d 996 (1943).

³⁴ Ibid. Page 1026. Sec. 6, act of May 27, 1908, 35 Stat. 312.

³⁵ Ibid. Page 1026. For a discussion of the work of the Probate Division of the Bureau of Indian Affairs of the Department of the Interior, especially in regard to the Five Civilized Tribes and the Osages, see Hearings, House Committee on Indian Affairs, H.R. 6234, 74th cong., 1st sess., 1935, pp. 121-131.

1 **June 14, 1918 (40 Stat. 731.), vested in the State courts**
2 **jurisdiction to probate wills and determine heirs in accordance**
3 **with State laws of any deceased citizen allottee of the Five**
4 **Civilized Tribes who died leaving restricted heirs. In**
5 **proceedings arising under this statute the State courts act as**
6 **an administrative agency of the Federal Government, the**
7 **restricted assets of the estate no being subject to**
8 **administration. By the act of August 4, 1947 (61 Stat. 731),**
9 **Congress provided that these probate proceedings, as well as**
10 **guardianship matters, were to be within the exclusive**
11 **jurisdiction of the State courts and that the United States**
12 **would be deemed an indispensable party to such**
13 **proceedings.³⁶**
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24 ³⁶ Ibid. Page 1027.
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**VI. ITEMIZED CHART OF SOURCES OF INDIVIDUAL INDIAN
RESTRICTED FUNDS³⁷**

See Exhibit B for more information.

U.S.C. sec. No.	Source of Income	Date of act	Statute citation	Provision	Estimated amount owned to Plaintiff Mohn's trust for over 114 yrs.
25:314	Rights-of-way.....	Mar. 2, 1889, sec. 3, amended Feb. 28, 1902.	30 Stat. 991...	"Payment to the Secretary of the Interior for the benefit of the tribe or nation."	\$5,000,000.
25:319	Rights-of-way for telephone, etc.	Mar. 8, 1901, sec. 8.	31 Stat. 1083...	"Pay to the Secretary of the Interior, for the use and benefit of the Indians, such annual tax as he may designate."	\$5,000,000.
25:321	Right-of-way for pipelines	Mar. 11, 1904, amended Mar. 2, 1917, sec. 1.	33 Stat. 65, 39 Stat. 973...	"Pay to-the Secretary of the Interior, for the use and benefit of the Indians, such annual tax as he may designate."	\$10,000,000.
Continued	on the next	page.....			

³⁷ Ibid. Page 732.

25:320	Acquisition of lands by railways for materials and reservoirs	Mar. 3, 1909...	33 Stat. 781...	"Deposited in the Treasury of the United States to the credit of the tribe or tribes."	\$10,000,000.
25:407	Sale of timber...	June 25, 1910, sec. 7	36 Stat. 857...	"Shall be used for the benefit of the Indians of the reservation in such manner as he (Secretary of Interior may direct."	\$5,000,000.
25:190	Sale of agency tracts etc.	April 12, 1924...	43 Stat. 93...	"Deposited in the Treasury of the United States to the credit of the Indians owning the same."	\$5,000,000.
25:400a	Mining lease of agency reserves.	April 17, 1926...	44 Stat. 300...	"Deposited in the Treasury of the United States to the credit of the Indians for whose benefit the lands are reserved subject to appropriation by Congress for educational work among the Indians or in paying expenses of the	\$20,000,000.

				administration of agencies.”	
16:615	Sale of burnt timber on “Public Domain.”	Mar. 4, 1913, amended July 3, 1926.	37 Stat. 1015, amended 44 Stat. 891.	“Transferred to the fund of such tribe or otherwise credited or distributed as by law provided.”	\$5,000,000.
30.86	Agricultural entries on surplus coal lands.	Feb. 27, 1917, sec. 4	29 Stat. 944, 945.	“Shall be paid into the Treasury of the United States to the credit of the same fund under the same conditions and limitations as are or may be prescribed by law for the disposition of the proceeds arising from the disposal of other surplus lands in Indian reservation.”	\$25,000,000.
16:810	Water power license rentals.	June 10, 1920, sec. 17	41 Stat. 1063, 1072.	“Shall be placed to the credit of the Indians of such reservation.”	\$10,000,000.
TOTAL					\$100,000,000.

*** * * An improper release of restricted funds does not necessarily release the restriction and may give rise to a right to an accounting**

1 from the person managing the affairs of the Indian. *House v. United*
2 *States*, 144 F. 2d 555 (1944), cert. den. 323 U.S. 781. * * *³⁸
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24 ³⁸ Ibid. Page 1022.
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1 **VII. CONCLUSION**

2 **A. The DOI's continuous overthrow of the U.S. Constitution, the legislative**
 3 **authority of Congress, the judicial authority of this Court, and the**
 4 **ministerial authority of the Secretary of Interior, thereby causing the**
 5 **Restricted funds of plaintiff Mohn's trust to fall to ruin, is not based on a**
 6 **philosophy of Originalism or Legal Precedent, but Federal Institutional**
 7 **Racism forevermore.**

9 What philosophy of law did the DOI Bureau of Indian Affairs ("BIA") enforce by:
 10
 11 1) denying plaintiff Mohn's certificate of degree of Indian blood ("CDIB") claims;
 12 consequently, 2) causing his individual Indian Restricted fund to fall to ruin, due to the
 13 unlawful conveyance of his Reese family Restricted land trust in the district courts of
 14 Oklahoma, without the approval of the Secretary of Interior? Was this Court's ruling
 15 based upon the philosophy of "Originalism?"³⁹ **The answer is a resounding No.** By
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 18 ³⁹ In the context of United States law, originalism is a concept regarding
 19 the interpretation of the Constitution that asserts that all statements in the constitution
 20 must be interpreted based on the original understanding "at the time it was adopted."
 21 This concept views the Constitution as stable from the time of enactment and that the
 22 meaning of its contents can be changed only by the steps set out in Article Five (Vloet,
 23 Katie, September 22, 2015, "Two Views of the Constitution: Originalism vs. Non-
 24 Originalism." University of Michigan Law).

denying plaintiff Mohn's full-blood Native Cherokee CDIB claim (in 2014), the DOI proves they will continue to breach plaintiff Mohn's trust and allow the Restricted funds derived from his Restricted lands to continue to fall to ruin, consequently, overthrowing the legislative authority of Congress, the judicial authority of this Court, and the ministerial authority of the Secretary of Interior, notwithstanding the Act of Congress approved October 1, 1890 (26 Stat. at L. 636, chap. 1249). **Unlawfully, for over a century, the Dawes Commission and BIA, both subordinate agencies of the DOI, have continued to totally disregard the truth and the rule of law to degrade bonified full-blood Native Cherokee citizens and their descendants to Cherokee Freedmen, despite their full-blood Native Cherokee ancestors never being Cherokee African slaves to begin with,** notwithstanding the *1880 Authenticated Cherokee Nation Final Roll*, federally recognized by Section 21 of the Curtis Act of Congress approved June 28, 1898 (30 Stat. 498, 502), and Section 27 of the Act of Congress approved July 1, 1902 (c. 1375, 32 Stat. 716, 720).

Additionally, the DOI refuses to stand in its very own "Continuing Wrongs" doctrine. In 1978, the Court of Claims established the continuing wrongs doctrine. **It defined a "continuing wrong" as "a wrongful course of governmental conduct [which] began before August 13, 1946 and continued thereafter."** *Navajo Tribe of Indians v. United States*, 218 Ct. Cl. 11, 20, 586 F.2d 192 (1978), cert. denied, 441 U.S. 944 (1979). **This meant that, where the Indian Claims Commission found a 'continuing wrong' to exist, the Commission was empowered to award damages for all or part of the post-August 13, 1946 period, depending on the duration of the particular**

continuing wrong, thereby enabling a vast expansion of what the government had considered was the Commission's legitimate jurisdiction. In March 1976, Congress extended the life of the Commission, but provided for its termination effective September 30, 1978. Congress also provided for the transfer of any unresolved ICCA claims to the United States Court of Federal Claims.

B. The DOI Endorses the Overthrow of The Jurisdictional Supervision of the U.S. Court of Federal Claims

1. Enforcement of The DOI's One-Drop Rule Policy

Based upon the records in charge of the racist Jim Crow era, federally perjured *1898—1914 DOI Commission of the Five Civilized Tribes Roll*, the DOI has admittedly decided in favor of enforcing the racist philosophy known as the "One-drop Rule," which asserted that any person with even one distant ancestor of black ancestry ("one drop" of black blood) was considered 100% black. To cleverly degrade the full-blood Native Cherokee citizenship of their victims who married former Cherokee African slaves (known as Cherokee Freedmen), administrative officer Needles would cleverly use the Cherokee African slave ancestry of their spouse to replace the full-blood Native Cherokee ancestry of the applicant. **In the case of the Reese family, the evidence in their Dawes Commission testimony records is conclusive, proving that administrative officer Needles perpetrated the heinous crime of falsely creating slaveowners, of whom were proven to have never existed, for Jesse Reese and Betsy Reese (but not James Reese), to unlawfully degrade their full-blood Native**

Cherokee citizenship birthrights and Restricted land trust to Cherokee Freedmen.

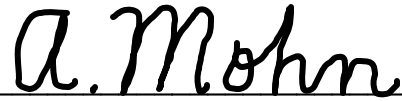
These unwarranted actions were perpetrated by commissioner Needles despite Needles testifying under oath that the entire Reese family was confirmed as full-blood “Native Cherokees” on the *1880 Authenticated Cherokee Nation Final Roll*. These facts are proven by commissioner Needles’ sworn testimony on the *1898—1914 DOI Commission of the Five Civilized Tribes Roll*. See Exhibit A.

Sadly, the enforcement of the racist One-drop rule philosophy and the racist “Dawes Commission is a Tribunal” theory upheld by the DOI in their CDIB denial decision against plaintiff Mohn (in 2014), unlawfully degrading his full-blood Native Cherokee citizenship to Cherokee African slaves, and subsequently, unlawfully conveying his Restricted land trust without the approval of the Secretary of Interior, has never been upheld by any court. Both Congress and the Federal courts have always rejected the unlawful conveyance of Restricted lands and the loss of individual Indian funds derived from them. For this very reason, Congress first granted the U.S. Court of Federal Claims jurisdictional supervision over the Dawes Commission by the Jurisdictional Act of Congress approved October 1, 1890 (26 Stat. at L. 636, chap. 1249), prior to approving the Curtis Act of Congress approved June 28, 1898 (30 Stat. 498, 502), supplemented by the Act of Congress approved July 1, 1902 (c. 1375, 32 Stat. 716, 720). Moreover, Congress approved the transfer of Cherokee Freedmen citizens and their direct lineal descendants to the “Cherokee by blood” roll, long ago, according to Section 4 of the Act of April 26, 1906 (34 Stat. 137, c. 1876).

Therefore, Plaintiff Mohn prays the U.S. Court of Appeals will issue the proper remedy of a “Writ of Mandamus” to finally recover the individual Indian funds derived from his Restricted land trust, unlawfully conveyed in the State of Oklahoma district courts, without the approval of the Secretary of Interior. Acts of public officials which require the exercise of discretion may not be subject to review in the courts. **However, “if such acts are purely ministerial or undertaken without authority, the courts have jurisdiction and mandamus is the proper remedy.”** *Garfield v. Goldsby*, 211 U.S. 249 (1908). The All-Writs Act, 28 U.S.C. § 1651(a), **confers the power of mandamus on federal appellate courts.** *La Buy v. Howes Leather Co., Inc.*, 352 U.S. 249 (1957). **Mandamus may be appropriately issued to confine an inferior court to a lawful exercise of prescribed jurisdiction, or when there is a usurpation of judicial power.** See *Schlagenhauf v. Holder*, (379 U.S. 104 (1964)). Again, the multiple aggravated felony perjury crimes perpetrated by administrative officer Needles and continually enforced by the U.S. Dept. of Interior against Plaintiff Mohn were a usurpation of not only the executive power of the Secretary of Interior, but the judicial power of the U.S. Court of Federal Claims, and the legislative power of Congress, forever. **In order to redress these heinous crimes perpetrated by a low-level administrative officer against Plaintiff Mohn, a proper remedy of a Writ of Mandamus may be employed, to require a lower court to enforce the judgment of an appellate court, or to keep such a court from interposing unauthorized obstructions to the enforcement of the judgment of a higher court.** See *United States v. District Court*, (334 U.S. 258, 263 (1948)) to enforce obedience to a court of

1 appeals mandate. “Where the right was clear and indisputable, mandamus was issued
2 to compel a lower court...” *Spacil v. Crowe*, (489 F.2d 614 (5th Cir. 1974)). “**The district**
3 **courts have no jurisdiction of a suit seeking mandamus against the United**
4 **States.**” *United States v. Jones*, (131 U.S. 1 (1889)); *Minnesota v. United States*, (305
5 U.S. 382 (1939)); *McCune v. United States*, (374 F. Supp. 946 (S.D.N.Y. 1974)).
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1 Signed on this 6th day of February 2021, on the birthday anniversaries of both my
2 mother, Phyllis Christian Omoyale, and my maternal 3rd great grandmother, full-blood
3 Native Cherokee Betsy Reese, who survived the perilous journey of the "Trail of Tears,"
4 from the "Old Nation" (New Echota, Georgia) to the Indian Territory of Oklahoma,
5

6 
7

8 AYINDE MOHN

9 PO BOX 471502

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In the United States Court of Federal Claims

AYINDE MOHN (BENEFICIARY)

Plaintiff(s),

v.

THE UNITED STATES,

Defendant.

Case No. _____

Judge _____

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2021, a copy of Complaint - MANDAMUS
IS THE PROPER REMEDY FOR THE RIGHT TO LEGAL REPRESENTATION & RESTRICTED FUNDS
was mailed via email, to CHEROKEE NATION OFFICE OF ATT. GENERAL
at cnoag@cherokee.org.

A Mohn

(Signature of Applicant)

AYINDE MOHN

(Printed Name)

PO BOX 471502

(Street Address)

TULSA, OK. 74147

(City, State, ZIP Code)

918-428-9066

(Phone Number)

In The United States Court of Federal Claims

Cover Sheet

Plaintiff(s) or Petitioner(s)

Names: AYINDE MOHN 21-922 CLocation of Plaintiff(s)/Petitioner(s) (city/state): TULSA, OKLAHOMA

(If this is a multi-plaintiff case, pursuant to RCFC 20(a), please use a separate sheet to list additional plaintiffs.)

Name of the attorney of record (See RCFC 83.1(c)): _____

Firm Name: _____

Contact information for pro se plaintiff/petitioner or attorney of record:

Post Office Box: _____

Street Address: _____

City-State-ZIP: _____

Telephone & Facsimile Numbers: _____

E-mail Address: _____

Is the attorney of record admitted to the Court of Federal Claims Bar? ☐ Yes ☐ NoNature of Suit Code: 504

Select only one (three digit) nature-of-suit code from the attached sheet.

Agency Identification Code: DOINumber of Claims Involved: 2Amount Claimed: \$ 100,000,000.
Use estimate if specific amount is not pleaded.

Bid Protest Case (required for NOS 138 and 140):

Indicate approximate dollar amount of procurement at issue: \$ _____

Is plaintiff a small business?

☐ Yes☒ No

Was this action preceded by the filing of a protest before the GAO?

☐ Yes☒ No

GAO Solicitation No. _____

If yes, was a decision on the merits rendered? ☐ Yes ☐ No

Income Tax (Partnership) Case:

Identify partnership or partnership group: _____

Takings Case:

Specify Location of Property (city/state): _____

Vaccine Case:

Date of Vaccination: _____

Related Case:

Is this case directly related to any pending or previously filed case(s) in the United States Court of Federal Claims? If yes, you are required to file a separate notice of directly related case(s). See RCFC 40.2.

☒ Yes ☐ No

EXHIBIT A

**1901 Dawes Roll
Packet for the Full-
Blood Native Cherokee
Applications of Jesse
Reese, Betsy Reese,
and James Reese**

POST OFFICE:

Unita, ST.

Cherokee Nation. Freedmen Roll.

CARD NO. _____

FIELD No. 100

1880 TRIBAL ENROLLMENT

Dawes Roll No.	NAME.	Relationship to Person first Named.	AGE.	SEX.	TRIBAL ENROLLMENT.			SLAVE OF—	REMARKS.
					Year.	District.	No.		
	Reese, Jesse								
1749	Reese Jesse	X	60	M	1880	600	2437	Jesse Reese	
1750	Betsy	Wife	60	F	1880	"	2438	Jesse Ruffington	
	Reese Betsy						#2438		FAKE SLAVE OWNERS
	CITIZENSHIP CERTIFICATE ISSUED FOR NO. MAR. 9 1902								

BACK OF F705

Printed numbers in first column refer to individual names on reverse side.

705

FATHER'S TRIBAL ENROLLMENT: Cher. citizen Canadian Dist.

	NAME OF FATHER.	FATHER'S TRIBAL ENROLLMENT.			FATHER'S OWNER.	NAME OF MOTHER.	MOTHER'S TRIBAL ENROLLMENT.			MOTHER'S OWNER.
		Year.	District.	No.			Year.	District.	No.	
1	Eliowa	dead	Cher. citizen	Canadian			Delaware			
2						Sallie Walker				
3										
4										
5										

Eliowa is the Cherokee name of Elijah Hicks, the son of 2nd Principal Chief Charles Hicks.

NO SLAVE
OWNER

NO SLAVE
OWNER

Laurel County DISTRICT.

Vieta, I.

CARD No. _____

FIELD No. 717

~~1880 TRIBAL ENROLLMENT: #2440~~ FIELD NO. 111

SLAVE OF—

NO SLAVE
OWNER

NO. 1 ON 1880 ROLL as Jennie Reese

No 1 on 1880 Race as Jennie R.
No 1 " K.C. Race Page 119 No 1 " as Jennie R.

Printed numbers in first column refer to individual names on reverse side.

NAME OF FATHER	FATHER'S TRIBAL ENROLLMENT			FATHER'S OWNER	NAME OF MOTHER	MOTHER'S TRIBAL ENROLLMENT			MOTHER'S OWNER
	Year	District	No.			Year	District	No.	
James Reese				✓	John Reese				
No. 1					Marion Paul				

BACK OF F707

APPLICATION OF BETSY REESE FOR FULL-BLOOD NATIVE CHEROKEE

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
VINITA, I.T., MAY 6th, 1901.

In the matter of the application of Betsy Reese for the enrollment of herself and husband as Cherokee Freedmen; said Reese being sworn and examined by Commissioner J. H. Needles, testified as follows:

Q What is your name? A Betsy Burdette.

Q How old are you? A I don't know, I come from the old Nation.

Q Don't know how old are you? A No, sir.

Q What is your post office? (Vinita.)

Q In what district do you live? (Goosescoowee.)

(Further examination conducted through Interpreter Simon R. Walkingstick.)

Q Who do you want to enroll? A Just herself.

Q What is her post office, Vinita? A Yes, sir, Vinita.

Q Does she apply to be enrolled as a Cherokee Freedman?

Q How long has she lived in the Cherokee Nation? A I came with the Cherokee from the old country.

Q Been living here every since? A Yes, sir.

Q INTERVIEWER: She has a husband living too.

Q What is his name? A Jesse Reese.

Q What was her name 20 years ago? A It was Burdette.

Q How old is her husband? A I don't know.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and the names of applicants found thereon as follows:

Page 165, #2457, Jesse Reese, Goosescoowee District, Native Cherokee, 40 years of age.

Page 165, #2458, Betsy Reese, Goosescoowee District, Native Cherokee, 40 years of age.

Q Did you draw Cherokee strip money? A Yes, sir, we drew at Chelise and Hayden.

The 1896 Census roll of citizens of the Cherokee Nation examined and the names of applicants not found thereon.

The Kerns-Cotton roll of citizens of the Cherokee Nation examined and the names of applicants found thereon as follows:

Page 119, #2968, Jesse Reese, Goosescoowee District.

Page 119, #2969, Betsy Reese, Goosescoowee District.

Q Jesse is alive and living? A Yes, sir.

Q Both always lived in the Cherokee Nation? A Yes, sir.

CONFIRMATION:--Betsy Reese applies for the enrollment of herself and her husband, Jesse. They are duly identified according to the page and number of the roll and make satisfactory proof as to residence and will be listed for enrollment as Cherokee Freedmen.

---0000000000---
J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this May 6th, 1901.
J. H. Needles
Commissioner.

1880 ROLL VERIFICATION

Interpreter

BETSY REESE'S NAME WAS NEVER BURDETTE

DEPT. OF THE INTERIOR 5/6/1901.

CHEROKEE CITIZENS H I R FOR JAMES REESE

1901 APPLICATION FOR FULL-BLOOD NATIVE

COMMISSIONER:--The name of James Reese is found upon the authenticated roll of 1880 and upon the Kerns-Cotton roll. His name is not upon the census roll of 1896. He applies for the enrollment of himself. He is duly identified according to the page and number of the roll and makes satisfactory proof as to residence and will be listed for enrollment as a Cherokee Freedman.

Q Have you always lived in the Cherokee Nation, Jim? A Yes, sir. Q Did you ever apply to be enrolled by any other Nation or tribe? A No, sir, I think not. Q You never drew any money from any other Nation besides the Cherokee? A No, sir.

#2971, Jim Reese, Cooweescoowee district. The Kerns-Cotton roll of citizens of the Cherokee Nation examined and the name of applicant found thereon, page 119.

Q Did your father and mother draw strip money for you? A Yes, sir, and child.

COMMISSIONER: Well, I expect you had better wait for your wife or next day.

Q Will your wife be here? A Yes, sir, she will be here to-morrow here.

Q What district? A I don't know what district they were raised in. No, sir, I think not.

Q Your wife was born and raised in Delaware district you say? A Yes, sir; they was owned by Starr.

Q You say Reese and Permelia Howe were called Starr sometimes? A Married 20th day of August, 1896.

When were you married? A Married 20th day of August, 1896.

Nation examined and applicant's name identified thereon, page 165, #2440, Jennie Reese, Cooweescoowee District. Applicant's wife's name cannot be identified upon this roll.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name identified thereon, page 165, #2440, Jennie Reese, Cooweescoowee District.

Q Did you have a sister named Jennie? A No, sir.

Q Is your wife here? A No, sir, she will be here to-morrow or next day.

Q Only one child? A Yes, sir.

Q How old is Leanderson? A Three years old, the third day of April.

Q Is that a boy or girl? A Boy.

Q What is your child's name? A Leanderson.

Q She is living? A Yes, sir.

Q Your mother Betty? A Yes, sir.

Q Is he living? A Yes, sir.

Q What was your father's name? A Jess Reese.

Q Is she living? A Yes, sir.

Q What is her mother's name? A Permelia Howe.

Q He is living? A Yes, sir.

Q What was her father's name? A Jess Howe.

Q Is she a Cherokee Freedman? A Yes, sir, I guess so.

Q How old is she? A 23 I think.

Q What is your wife's name? A Savannah Howe.

Q Anybody besides yourself? A My wife and one child.

Q Who do you want to enroll besides yourself? (No response.)

Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.

In the matter of the application of James Reese for enrollment as a Cherokee Freedman; said Reese being sworn and examined by Commissioner T. B. Needles, testified as follows:

James Reese

5/6/1901. DEPARTMENT OF THE INTERIOR. TESTIMONY

1880 ROLL

1880 ROLL VERIFICATION





EXHIBIT B

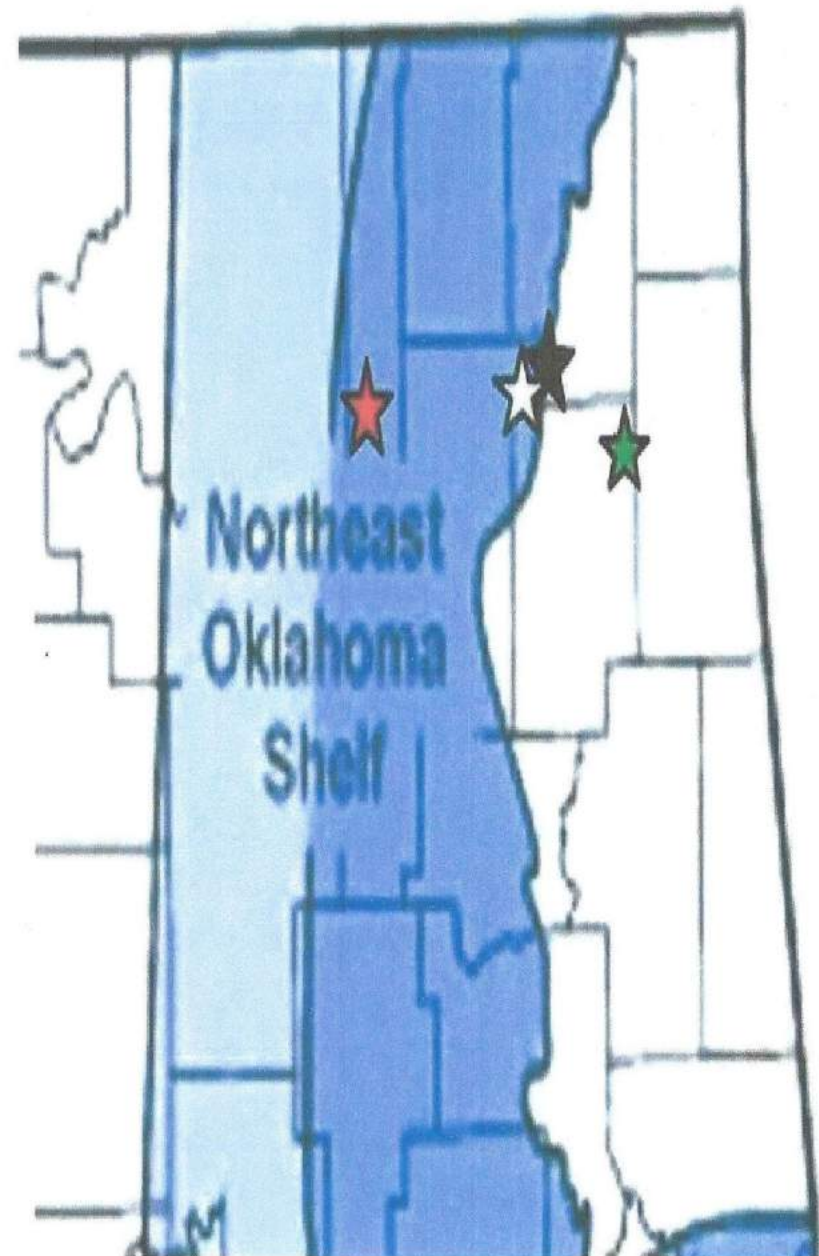
**DOI Restricted Land
Allotment Certificates
for the Entire Reese
Family and Proof of
Restricted Funds**

Oklahoma Coal Map

 Commercial Coal Belt

 Non-Commercial Coal-bearing Region

Name	Allotment Certificate #'s
 James Reese	#15799 (8 Acres)
 Jesse, Betsy, James & Anderson Reese	#2233, #2304, #2631, #2632, #2710, #2986, #14432, #11497, #29013, #42175 (396.55 Acres)
 Jeese & Betsy Reese	#15796, #15802 (20 Acres)
 Anderson Reese	#61086 (10 Acres)
	Total = 487.75 Acres



Grantor: SCISSORTAIL ENERGY
LLC/BANK OF AMERICA NA ETAL

Grantee: BANK OF AMERICA NA
Legal Descriptions:

EXHIBIT B

North half of
Section 2 of
T23N R12E

2

1

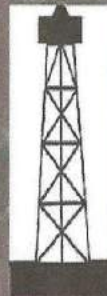
BRANNIN FAMILY LLC
5317 S COLUMBIA PLACE
TULSA OK 74105

LOT 1-40.34 AC: LOT 2-40.34
AC: LOT 3-8.93 AC 89.61 AC

Power line →

4

NW NW SW NE



Jean
Little
Oil & Gas
Well
JL2B-1

HB & W TRUST
REBECCA HALL BUCHANAN
TRUST
JAMES DONALD HALL JR &
3501 PORTER AVE
MUSKOGEE OK 74403

LOT 4-8.03 AC: LOT 5-7.27 AC: N 3.22 AC LOT 6: S 1/2 NE: N 1/2 SE:
N 1/2 SE SE: N 1/2 SW SE: 218.52 AC

Power line →

Google earth
Earth Point

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Assignment Overriding Royalty

Book 002079
Pages 0797 - 0809

Rogers County, OK

Instrument I-2010-000424
Recorded January 11, 2010 at 9:44am

Fees & Dates

Fees \$37.00
Mortgage amount \$0.00
Document stamps \$0.00
Recorded on 01/11/2010 9:44am
Instrument date 12/21/2009

Parties

- Grantor
 - MADANN RESOURCES
- Grantee
 - TIER HYDROCARBON EXPLORATION

Legal Description

- S26 T22N R17E E2 SW SW
- S1 T23N R17E NW
- S27 T21N R16E NW SW SE Partial
- S27 T21N R16E E2 SW SE SW
- S27 T21N R16E N2 SE SW
- S27 T21N R16E NE SW
- S24 T21N R17E N2 SE NE
- S24 T21N R17E SW NE

13 Images

4/11/2015

Rogers | I-2010-000424 | OKCountyRecords.com | County Clerk Public Land Records for Oklahoma

- S34 T22N R17E SE NE Partial
- S34 T22N R17E NW NW
- S34 T22N R17E SE SE Partial
- S33 T22N R17E S2 NE SE Partial
- S33 T22N R17E SE SE
- S26 T22N R17E W2 SE SW Partial
- S28 T24N R18E NE NW
- S24 T24N R18E S2 SE
- S24 T24N R18E N2 SE
- S24 T24N R18E E2 NE
- S24 T24N R18E NW NW
- S24 T24N R18E NE NW
- S16 T24N R18E SE
- S11 T24N R18E NE NW Partial
- S11 T24N R18E SE NW
- S11 T24N R18E E2 W2 NW
- S11 T24N R18E N2 SW SW NW
- S11 T24N R18E NW SW NW
- S11 T24N R18E W2 SW NE
- S3 T24N R18E NW SE SE
- S3 T24N R18E NE SE
- S2 T24N R18E L2 Partial
- S1 T24N R18E N2 SE NE
- S1 T24N R18E L1
- S36 T23N R17E SW NE
- S36 T23N R17E NW NE
- S35 T23N R17E SW SE NE
- S35 T23N R17E W2 NE SE
- S35 T23N R17E W2 NE
- S25 T23N R17E W2 NW NE
- S25 T23N R17E NE NW
- S25 T23N R17E E2 NW NW
- S25 T23N R17E W2 SW SE
- S23 T23N R17E W2 SW SE Partial
- S23 T23N R17E NW SE
- S23 T23N R17E N2 SW Partial
- S29 T24N R18E SE NW
- S29 T24N R18E E2 NW SW NE
- S29 T24N R18E E2 W2 NW NE
- ✓ S28 T24N R18E N2 SW NW
- ✓ S28 T24N R18E S2 NW NW
- ✓ S28 T24N R18E NE NW NW
- S34 T24N R18E SE SW Partial
- S34 T24N R18E W2 SE Partial
- S29 T24N R18E W2 NW SW NE
- S29 T24N R18E W2 W2 NW NE
- S29 T24N R18E SW NE NW
- S29 T24N R18E E2 NE NW

2/27/2015

Washington | I-2015-000358 | OKCountyRecords.com | County Clerk Public Land Records for Oklahoma



Oil & Gas Mortgage

Book 001134
Pages 1431 - 1463

Washington County, OK

Instrument I-2015-000358
Recorded January 16, 2015 at 11:18am

Fees & Dates

Fees \$77.00
Mortgage amount \$0.00
Document stamps \$0.00
Recorded on 01/16/2015 11:18am

Parties

- Grantor
 - AMERICAN LOCAL ENERGY LLC
- Grantee
 - PATRIOT BANK

Legal Description

- S7 T23N R14E W2 SE NW
- S7 T23N R13E S2 NE SW
- S7 T23N R14E SW SW L4
- S7 T23N R14E NW SW L3 Partial

<https://okcountyrecords.com/detail/washington/2015-000358/16557568>

33 Images

Record Details

Instrument Number I-2007-011314

Recorded On 11/09/2007 at 2:28PM

Instrument Type Mtg

Book 001062

Pages 0713 to 0736

Fees \$59.00

Document Stamps \$0.00

Mortgage Fees \$0.00

Comments

1052-200

Parties

- **Grantor**
 - SCISSORTAIL ENERGY LLC ETAL
 - BANK OF AMERICA NA ETAL
- **Grantee**
 - BANK OF AMERICA NA

Legal Description

- S02 T23N R12E E2 E2 SE NW L4
- S02 T23N R12E E2 E2 NE NW L5
- S02 T23N R12E E2 E2 SE SW L6
- S02 T23N R12E E2 E2 NE NW L3
- S11 T23N R12E SE
- S11 T23N R12E W2 NE
- S11 T23N R12E E2 E2 NE SW L4



Oklahoma Corporation Commission
ENERGY • TRANSPORTATION • UTILITIES

Basic Well Information[Home](#)

API Number 3514727437
Operator Name PANOAK OIL & GAS CORPORATION
Well Name JEAN LITTLE
County WASHINGTON
OG Well Status EX
Effective Date

Operator No. 5790
Well No. 4L2-D1
Code 0
Class

Legal Location 2
Quarters NW4
Surface Footages 0
Latitude 0
Dist. 0
23N 12E
NW4 SW4
0
Longitude 0
Elevation 0

[Permits](#) [Completions](#) [Production](#) [All Images](#)

Form No. 584.

LETTERS OF ADMINISTRATION.

UNITED STATES OF AMERICA,
INDIAN TERRITORY.*Northern* District.

ss:

The President of the United States of America,

To All Persons to whom these Presents shall Come—Greeting:

Know ye, that whereas, *Betsy Reese*
 of the *Northern* District of the
 Indian Territory, died intestate, as it is said, on or about the *13th* day
 of *June*, A. D. 1904, having at the time of ~~her~~ ^{her} death personal
 property in the Indian Territory which may be lost, destroyed, or diminished in
 value, if speedy care be not taken of the same; to the end, therefore, that the said
 property may be collected, preserved, and disposed of according to law, we do
 hereby appoint *Samuel Reese* of said *Northern* District
 of the Indian Territory, administrator of all and singular the goods and chattels,
 rights and credits which were of the said *Betsy Reese* at
 the time of ~~her~~ ^{her} death, with full power and authority to dispose of the said property,
 according to law, and to collect all moneys due the said deceased, and in general
 to do and perform all other acts and things which are or hereafter may be required
 of ~~him~~ ^{her} by law.

Witness, the Honorable *Joseph A. Guil*, Judge of the
 United States Court in the *Northern* District of the Indian
 Territory, and the seal thereof, at *Vinita*
 in the Indian Territory, this *14th* day
 of *July*, A. D. 1904

Clas A Davidson, Clerk.By *E. Davidson*, Deputy.

7-645

019
130X

ALLOTMENT AND HOMESTEAD PATENT RECORD

ALLOTMENT DEED.

81511 Cherokee Freedman

ROLL NO. 1757

DATE OF CERTIFICATE

THE CHEROKEE NATION,
INDIAN TERRITORY.

Roll # 1757

To All to Whom These Presents Shall Come, Greeting:

WHEREAS, By the Act of Congress approved July 1, 1863 (33 Stat. 716), ratified by the Cherokee Nation August 7, 1863, it is provided that there shall be allotted by the Commission to the Five Civilized Tribes, to each citizen of the Cherokee Tribe, land equal in value to one hundred and ten acres of the average allottable lands of the Cherokee Nation; and,

WHEREAS, It was provided by said Act of Congress that each citizen shall designate or have designated and selected for him, at the time of his selection of allotment, out of his allotment, as a homestead, land equal in value to forty acres of the average allottable lands of the Cherokee Nation, as nearly as may be, for which he shall receive a separate certificate; and,

WHEREAS, The said Commission to the Five Civilized Tribes, or its lawful successor, has certified that the land hereinafter described has been selected by or on behalf of **JAMES REESE**, a citizen of said tribe, as an allotment, exclusive of land equal in value to forty acres of the average allottable lands of the Cherokee Nation, selected as a homestead as aforesaid,

NOW, THEREFORE, I, the undersigned, Principal Chief of the Cherokee Nation, by virtue of the power and authority vested in me by aforesaid Act of the Congress of the United States, have granted and conveyed, and by these presents do grant and convey unto the said **James Reese** all right, title and interest of the Cherokee Nation, and of all other citizens of said Nation, in and to the following described land, viz:

The West Twenty two and 27/100(22.27) acres of L t Three (3) and the North west quarter of the South East quarter of the North West quarter and the South Half of the South West quarter of the North West quarter of section four (4), Township Twenty four (24) North and Range Nineteen (19) East, and Lot Three (3) of Section Two (2) Township Twenty three (23) North, and Range Twelve (12) East.

of the Indian Base and Meridian, in Indian Territory, containing **Sixty one and 20/100(61.20)** acres, more or less, as the same may be, according to the United States survey thereof, subject, however, to all the provisions of said Acts of Congress.

IN WITNESS WHEREOF, I, the Principal Chief of the Cherokee Nation, have hereunto set my hand and caused the Great Seal of said Nation to be affixed this **1** day of **Nov**, A. D. 190 **7**

(SEAL)

W. C. ROGERS, Principal Chief of the Cherokee Nation.

Department of the Interior, Approved **Dec, 7,** 190 **7**

FREDERICK A. HITCHCOCK,

JAMES RUDOLPH GARFIELD,
Secretary.

By OLIVER A. PHILIPS, Clerk.

Filed for record on the **15** day of **Dec**, 190 **7** at **2** o'clock **P** M., and recorded in Book **84**, Page

IN THE DISTRICT COURT WITHIN AND FOR CRAIG COUNTY,
STATE OF OKLAHOMA.

Hugh F. Cavett,

PLAINTIFF,

Case No. 4054, Civil.

The Unknown Heirs, Executors,
Administrators, Devisees, Trus-
tees and assigns, immediate or
remote of Martha J. Fogle, de-
ceased and of Betsy Reese, de-
ceased,

DEFENDANTS.

Case No. 4054

JOURNAL ENTRY OF JUDGMENT.

Now, on this 18 day of February, 1924, the same being one of the regular juridical days of the adjourned November, 1923, term of this court, comes on for hearing in open court the above entitled matter. Hugh F. Cavett is present in court and by his Attorney and the defendants make no appearance and are three times called aloud at the bar of the court, but came not and each and every one of them wholly made default and are by the court adjudged in default. The plaintiff waives a jury trial in this cause and the matter is sub-
mitted to the court; the witnesses are sworn and give their testi-
mony which is by the court heard and considered. The court, now,
finds, adjudges and declares that Hugh F. Cavett is the owner in fee
simple of, in and to all the lands described in the petition and here-
inafter described, and that he is now in the peaceable, open, notori-
ous and quiet possession of the same and that he acquired his title
to said lands as set forth in the petition:

The court further FINDS, ADJUDGES and DECLARES that Martha J. Fogle, who at one time owned certain of the lands set forth in the petition, died a resident of the State of Kentucky on or about the 18th, day of December, 1915, and that she was, at the time of her death, a widow and left her surviving ^{two} ~~her~~ husband; that she died testate as to certain of her property but said will had no residuary clause therein and, therefore, was wholly intestate and unoperative as to the land described in the petition, and made no disposition of any of her land in the State of Oklahoma; that, at the time of the

IN THE DISTRICT COURT WITHIN AND FOR CHASIG COUNTY, OKLAHOMA.

Hugh E. Davett, Plaintiff,

No. 4024 CIVIL

AFFIDAVIT SHOWING REASON FOR NOT WAITING
NOTICE AND PETITION TO DEFENDANTS.

Defendants
The unknown heirs, executors,
administrators, devisees, trustees,
and assigns, immediate and remote
of Martha J. Fogie, deceased, and
of Betsy Heese, deceased.

State of Oklahoma,
County of Craig,

I, William T. Nye, being first duly sworn,

do hereby depose and say: That I am attorney for the plaintiff

in the above entitled cause; that I did not mail copy of publication

notice to defendants, nor copy of petition, for the reason that

neither the affiant nor his the plaintiff in this case knew at

the time of giving the said notice, and have not since learned

either the names, or the addresses, or the name and address of any

of the defendants comprehended in the designation "The unknown heirs,

executors, administrators, devisees, trustees, or assigns, immediate

or remote of Martha J. Fogie, deceased, and of Betsy Heese, deceased."

and therefore this affiant did not within six days after the first

publication, or at any other time, mail a copy of the petition with

a copy of the notice thereto attached.

Subscribed in my presence and sworn to before me this the 18th

day of February, 1934.

Paul D. S. Simon,
Court Clerk.

By Flourie Hillman
Deputy Court Clerk.

DID NOT
SERVE ANYONE

DEPARTMENT OF THE INTERIOR
 COMMISSION TO THE FIVE CIVILIZED TRIBES
 CHEROKEE LAND OFFICE.

APPLICATION FOR ALLOTMENT AND HOMESTEAD.

I, James Reese attorney in fact for Jesse Reese, do hereby make application to have set apart to me, and to those whom I lawfully represent, lands selected by me as follows:

Roll Number	NAME	Relationship to Person First Named	SUBDIVISION OF	Sec	Town	Acres	100ths	VALUATION		Certificate Number	HOMESTEAD				VALUATION		Certificate Number
								Dols.	Cts.		Sec	Town	Rge	Acres	100ths	Dols.	
31749	Jesse Reese		DE ^r of DW ^r of NW ^r of	2824	18	10	20	15	10	15104							

I, James Reese, do solemnly swear that I have in person actually been upon the lands so selected by me for myself and for those whom I represent, as above described, and am fully informed as to the location of the same, and the value of the same, and that no part of said lands is lawfully held by any other citizen of the Cherokee Nation.

Jesse Reese by James Reese his attorney in fact
 Subscribed and sworn to before me at Chickasaw Indian Territory,

his 21 day of July A. D. 1901
Daniel Foreman
 NOTARY PUBLIC

SEAL

DEPARTMENT OF THE INTERIOR
 COMMISSION TO THE FIVE CIVILIZED TRIBES
 CHEROKEE LAND OFFICE.
 APPLICATION FOR ALLOTMENT AND HOMESTEAD.

I, Jesse Reese, do hereby make application to have set apart to me, and to those whom I lawfully represent,

lands selected by me as follows:

Roll Number	NAME	Relationship to person for whom	SUBDIVISION OF	Sec. Town Rge. Acres 100a
F1749	Jesse Reese		S.W. 1/4 of N.E. 1/4 of S.W. 1/4	4 24
			N.W. 1/4 of S.W. 1/4 of	4 24

VALUATION	Certificate Number	HOMESTEAD	Sec. Town Rge. Acres 100a	VALUATION	Certificate Number
Dols. Cts.				Dols. Cts.	
19 10 -	✓	E. 1/2 of N.E. 1/4 of S.W. 1/4 of	4 24 19 20 -		
19 40 -	160 - 14432	N.W. 1/4 of N.E. 1/4 of S.W. 1/4 of	4 24 19 20 -	120 -	11497

I, Jesse Reese, do solemnly swear that I represent as above described, and am fully informed as to the location of the same, and the allotment for myself and for those whom I represent, and that no part of said lands is

Witness W. S. D. Moore

CERTIFICATE ISSUED MAY 3 1904

SEAL

I have in person actually been upon the lands so selected by me for myself and for those whom I represent, and that I have in good faith selected such lands and will accept the same in full held by any other citizen of the Cherokee Nation.

Jesse Reese
 on mark

Subscribed and sworn to before me at Varito, Indian Territory,

this 9 day of March, A. D. 1903

Samuel Foreman
 NOTARY PUBLIC

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
CHEROKEE LAND OFFICE.

APPLICATION FOR ALLOTMENT AND HOMESTEAD.

I, James Reese, do hereby make application to have set apart to me, and to those whom I lawfully represent, lands selected by me as follows:

Roll Number	NAME	Subdivision of	Sec. Tow. Rge. Acres 100ths	VALUATION Dols. Cts.	Certificate Number	HOMESTEAD	Sec. Tow. Rge. Acres 100ths	VALUATION Dols. Cts.	Certificate Number
1757	James Reese	N. W. 12. 27 acres of Lot 3	4 24 9 12 27			E. 1/2 of S. E. 1/4 of N. W. 1/4 of	4 24 19 20		✓
		S. W. 10 acres of Lot 3	4 24 9 10 -	106 81	✓	S. W. 1/4 of S. E. 1/4 of N. W. 1/4 of	4 24 19 10	120 -	✓ 1201
		N. W. 1/4 of S. E. 1/4 of N. W. 1/4 of	4 24 9 10 -	27 10					
			32 27						

I, James Reese, do solemnly swear that I have in person actually been upon the lands so selected by me for myself and for those whom I represent, as above described, and am fully informed as to the location of the same, and the character of the soil, and that I have in good faith selected such lands and will accept the same in allotment for myself and for those whom I represent, and that no part of said lands is fully held by any other citizen of the Cherokee Nation.

James Reese
Subscribed and sworn to before me at Uvitcha Indian Territory,

this 9 day of March A. D. 1903

Samuel Foreman
NOTARY PUBLIC

SEAL

APPLICATION FOR ALLOTMENT AND HOMESTEAD.

Roll Number	NAME	SUBDIVISION OF	Sec.	Town	R. Acres 10000	VALUATION		Certificate Number	HOMESTEAD	Sec.	Town	R. Acres 10000	VALUATION		Certificate Number
						Dols.	Cts.						Dols.	Cts.	
7157	James Reese	S ¹ / ₂ of S ¹ / ₄ S ¹ / ₄ NW ¹ / ₄ 424	19	20	80		1898	16							

have in person actually been upon the lands so selected by me for myself and for those whom I have in good faith selected such lands and will accept the same in full and will not allow myself to be held by any other citizen of the Cherokee Nation.

Samuel Foreman.

LIBRARY PUBLIC

SEAL.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

CHEKOKEE L. AND OFFICE.

I make application to have set apart to me, and to those whom I lawfully represent,

I, James Dean, do hereby

3/19/57	James Oscar	For 3 of	7 28
Roll	NUMBER	SUBDIVISION OF	SEC. TOWN
HABITANT		IN PRESEN	FILE NUMBER

James Deer 5/1757

For 20¢

22 2

Age	Acres	100ths	Valuation	Dols. Cts.	Certificate Number
28	8	93	17	86	15999
HOMESTEAD					
	Sec	Town	Rge	Acres	100ths
	Valuation				
	Dols. Cts.				
	Certificate Number				

229 2/ 8 93/ 786 1599

~~I, [Signature], do solemnly swear that I am in person actually been upon the lands so selected by me for myself and for those whom I represent as above described, and am fully informed as to the location of the same, and the character of the soil, and that I have in good faith selected such lands and will accept the same in allotment for myself and for those whom I represent, and that no part of said lands is lawfully held by any other citizen of the Cherokee Nation.~~

Subscribed and sworn to before me at Wabigoon, Indian Territory,

James Beck

Hydrogen

his or her day of July A. D. 1907

NOTARY PUBLIC

© myself for now.

SEAL

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE CHEROKEE INDIAN LAND OFFICE.
APPLICATION FOR ALLOTMENT AND HOMESTEAD.

1

Subscribed and sworn to before me at Atoka Indian Territory, this 20th day of April A. D. 1906

James M. Hill
Notary Public

1

VALUATION	SECTION	TOWNSHIP	RANGE	COUNTY	STATE
61086	10	5	10	10	10

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE CHEROKEE INDIAN LAND OFFICE.
APPLICATION FOR ALLOTMENT AND HOMESTEAD.

1

Subscribed and sworn to before me at Atoka Indian Territory, this 20th day of April A. D. 1906

James M. Hill
Notary Public

1

VALUATION	SECTION	TOWNSHIP	RANGE	COUNTY	STATE
61086	10	5	10	10	10

DEPARTMENT OF THE INTERIOR
 COMMISSION TO THE FIVE CIVILIZED TRIBES
 CHEROKEE LAND AND OFFICE.
 APPLICATION FOR ALLOTMENT AND HOMESTEAD.

I, James Reese, do hereby
 lands selected by me as follows:

Roll Number	NAME	Relationship to Person First Named	SUBDIVISION OF	Sec	Town
51758	Anderson Reese		S ² NE ⁴ SE ⁴	5	R4
			NE ⁴ SW ⁴ SW ⁴	4	R4
			SW ⁴ SE ⁴	4	R4

I, James Reese, do solemnly swear that I have in person actually been upon the lands so selected by me for myself and for those whom I represent, as above described, and am fully informed as to the location of the same, and that no part of said lands is lawfully held by any other citizen of the Cherokee Nation.



I make application to have set apart to me, and to those whom I lawfully represent,

Age	Acres	100ths	VALUATION Dols. Cts.	Certificate Number	HOMESTEAD	Sec	Town	Age	Acres	100ths	VALUATION Dols. Cts.	Certificate Number
19 20												
19 10			200		SE ⁴ SW ⁴	4	R4	19 40			120	79012
19 40				47/115								

I have in person actually been upon the lands so selected by me for myself and for those whom I represent, as above described, and am fully informed as to the location of the same, and that no part of said lands is lawfully held by any other citizen of the Cherokee Nation.

Subscribed and sworn to before me at Tahlequah, Indian Territory,
 this 31 day of March A. D. 1900
Samuel Freeman
 NOTARY PUBLIC



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9023 E 46TH ST
TULSA, OK 74145-9998
(800)275-8777

02/08/2021

01:41 PM

Product	Qty	Unit Price	Price
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Priority Mail® 2-Day 1			\$13.50
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Washington, DC 20439

Weight: 2 lb 2.40 oz

Expected Delivery Date

Thu 02/11/2021

Tracking #:

9505 5150 2437 1039 5122 87

Insurance

\$0.00

Up to \$50.00 included

Total			\$13.50
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Grand Total:			\$13.50
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Credit Card Remitted			\$13.50
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Card Name: AMEX

Account #: XXXXXXXXXXXX3007

Approval #: 839753

Transaction #: 609

AID: A000000025010801

Chip

AL: AMERICAN EXPRESS

PIN: Not Required

USPS is experiencing unprecedented volume increases and limited employee availability due to the impacts of COVID-19. We appreciate your patience.

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